



## College Station, TX

### Meeting Agenda City Council

1101 Texas Ave, College Station, TX 77840  
Internet: <https://us06web.zoom.us/j/96728393278>  
Phone: 888 475 4499 and Meeting ID: 967 2839 3278

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February 9, 2023

4:00 PM

City Hall Council Chambers

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**Notice is hereby given that a quorum of the meeting body will be present in the physical location stated above where citizens may also attend in order to view a member(s) participating by videoconference call as allowed by 551.127, Texas Government Code. The City uses a third-party vendor to host the virtual portion of the meeting; if virtual access is unavailable, meeting access and participation will be in-person only.**

1. **Call to Order.**
2. **Presentation of the Employee of the Year nominees and recognition of the Employee of The Year, the City Impact Award, and the City Leadership Award recipients.**
3. **Reception.**
4. **Executive Session Agenda.**

Executive Session is closed to the public and will be held in the 1938 Executive Conference Room. The City Council may according to the Texas Open Meetings Act adjourn the Open Meeting during the Consent, Workshop or Regular Agendas and return into Executive Session to seek legal advice from the City Attorney regarding any item on the Workshop, Consent or Regular Agendas under Chapter 551, Texas Government Code.

4.1. Consultation with Attorney {Gov't Code Section 551.071}:

Possible action. The City Council may seek advice from its attorney regarding a pending or contemplated litigation subject or settlement offer or attorney-client privileged information. Litigation is an ongoing process and questions may arise as to a litigation tactic or settlement offer, which needs to be discussed with the City Council. Upon occasion the City Council may need information from its attorney as to the status of a pending or contemplated litigation subject or settlement offer or attorney-client privileged information. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed:

- a. Kathryn A. Stever-Harper as Executrix for the Estate of John Wesley Harper v. City of College Station and Judy Meeks; No. 15,977-PC in the County Court No. 1, Brazos County, Texas.
- b. McCrory Investments II, LLC d/b/a Southwest Stor Mor v. City of College Station; Cause No. 17-000914-CV-361; In the 361st District Court, Brazos County, Texas.
- c. Shana Elliott and Lawrence Kalke v. City of College Station, et al., Cause No. 22-001122-CV-85, in the 85th District Court, Brazos County, Texas.
- d. Robert Danny Clack, II v. City of College Station, et al., Civil Action No. 4:22-cv-02404, in the U.S. District Court for the Southern District of Texas, Houston Division.
- e. Kristin Marriott v. City of College Station, Cause No. 22-002259-CV-272, in the 272nd District Court, Brazos County, Texas.
- f. SOAH Docket No. 473-22-2464 and PUC Docket No. 52728 – Application of the City of College

Station to Change Rates for Wholesale Transmission Services.

g. Legal advice related to a development agreement regarding land generally located at the 2300 Block of Arrington Road.

**4.2. Personnel {Gov't Code Section 551.074};**

Possible action. The City Council may deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer. After executive session discussion, any final action or vote taken will be in public. The following public officer(s) may be discussed:

- a. City Manager
- b. City Council Self-Evaluation

**4.3. Security {Gov't Code Section 551.076 };**

Possible action. The City Council may deliberate the deployment, or specific occasions for implementation, of security personnel or devices or a security audit. After executive session discussion, any final action or vote taken will be in public. The following subject may be discussed:

- a. Security related to City Hall and Council Chambers.

**4.4. Competitive Matters {Gov't Code Section 551.086};**

Possible action. The City Council may deliberate, vote, or take final action on a competitive matter as that term is defined in Gov't Code Section 552.133 in closed session. The following is a general representation of the subject matter to be considered:

- a. Power Supply

**5. The Open Meeting will Reconvene No Earlier than 6:00 PM from Executive Session and City Council will take action, if any.**

**6. Pledge of Allegiance, Invocation, and Consider Absence Request.**

**Speaker Protocol**

An individual who desires to address the City Council regarding any agenda item other than those items posted for Executive Session must register with the City Secretary two (2) hours before the meeting being called to order. Individuals shall register to speak or provide written comments at <https://forms.cstx.gov/Forms/CSCouncil> or provide a name and phone number by calling 979-764-3500. Upon being called to speak an individual must state their name and city of residence, including the state of residence if the city is located out of state. Speakers are encouraged to identify their College Station neighborhood or geographic location. Please do not carry purses, briefcases, backpacks, liquids, foods or any other object other than papers or personal electronic communication devices to the lectern, nor advance past the lectern unless you are invited to do so. Each speaker's remarks are limited to three (3) minutes. Any speaker addressing the Council using a translator may speak for six (6) minutes. The speaker's microphone will mute when the allotted time expires and the speaker must leave the podium.

**7. Presentation - Proclamations, Awards, and Recognitions.**

**7.1. Presentation of a proclamation recognizing Black History Month.**

Sponsors: Barbara Moore

Attachments: None

**8. Hear Visitors.**

During Hear Visitors an individual may address the City Council on any item which does not appear on the posted agenda. The City Council will listen and receive the information presented by the speaker,

ask staff to look into the matter, or place the issue on a future agenda. Topics of operational concern shall be directed to the City Manager.

## **9. Consent Agenda.**

Presentation, discussion, and possible action on consent items which consist of ministerial or "housekeeping" items as allowed by law. A Councilmember may request additional information at this time. Any Councilmember may remove an item from Consent for discussion or a separate vote.

### **9.1. Presentation, discussion, and possible action of minutes for:**

- January 26, 2023 Council Meeting

Sponsors: Tanya Smith

Attachments: 1. CCM012623 DRAFT Minutes

### **9.2. Presentation, discussion, and possible action on the first reading of a franchise agreement ordinance with Brannon Industrial Group dba BVR Waste and Recycling for the collection of recyclables from commercial businesses and multi-family locations.**

Sponsors: Emily Fisher

Attachments: 1. BIG Franchise Agreement

### **9.3. Presentation, discussion, and possible action regarding the addition of a \$300,000 contingency amount for the Rock Prairie West Project, a \$440,000 contingency amount for the Greens Prairie Ph. 2 Widening Project, and a \$390,250 contingency amount for the Cain/Deacon Railroad Crossing Project. Approval of this item grants authority for the City Manager to authorize expenditures up to the City's contingency amount for each identified project.**

Sponsors: Jennifer Cain

Attachments: None

### **9.4. Presentation, discussion, and possible action regarding the adoption of a resolution supplementing Resolution 12-08-22-9.10 to approve of a revised Commitment Schedule in the Note with the U.S. Department of Housing and Urban Development Section 108 Loan Guarantee Program for the rehabilitation of LULAC Oak Hill Apartments.**

Sponsors: Debbie Eller

Attachments: 1. Attachment 2 - Note with Revised Commitment Schedule  
2. Attachment 1 - 2nd Amended Resolution

## **10. Workshop Agenda.**

### **10.1. Presentation, discussion, and possible action on an update from the College Station Police Department.**

Sponsors: Billy Couch

Attachments: None

### **10.2. Presentation, discussion, and possible action on an update from the College Station Fire Department.**

Sponsors: Richard Mann

Attachments: None

## **11. Regular Agenda.**

### **11.1. Public Hearing, presentation, discussion, and possible action on an ordinance amending Ordinance No. 2022-4383 as Budget Amendment Number 2 amending the 2022-2023 Fiscal Year in the amount of \$65,739,921.**

Sponsors: Mary Ellen Leonard

Attachments: 1. FY23 Budget Amendment #2 Ordinance

- 11.2. Presentation, discussion, and possible action regarding a change order to the CMAR contract for renovations at 1207 Texas Avenue with JaCody Construction, LP to add a Plaza Addition at 1207 Texas Avenue, for an amount not to exceed \$294,000.

Sponsors: Jennifer Cain

Attachments: 1. 1207 Texas Ave Change Order for Plaza Addition

- 11.3. Presentation, discussion, and possible action regarding the construction of an interactive sign to be located at 1101 Texas Avenue, for an amount not to exceed \$85,000.

Sponsors: Jennifer Cain

Attachments: 1. Aggieland Sign - Dailey Electrical Proposal  
2. Aggieland Sign - Comet Signs Proposal 1-3-2023

## **12. Council Calendar - Council May Discuss Upcoming Events.**

## **13. Items of Community Interest.**

The Council may receive reports from a Council Member or City Staff about items of community interest for which notice has not been given, including: expressions of thanks, congratulations or condolence; information regarding holiday schedules; honorary or salutary recognitions of a public official, public employee, or other citizen; reminders of upcoming events organized or sponsored by the City of College Station; information about a social, ceremonial or community event organized or sponsored by an entity other than the City of College Station that is scheduled to be attended by a Council Member, another city official or staff of the City of College Station; and announcements involving an imminent threat to the public health and safety of people in the City of College Station that has arisen after the posting of the agenda.

## **14. Council Reports on Committees, Boards, and Commissions.**

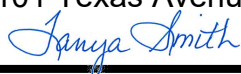
A Council Member may make a report regarding meetings of City Council boards and commissions or meetings of boards and committees on which a Council Member serves as a representative that have met since the last council meeting. (Committees listed in Coversheet)

## **15. Future Agenda Items and Review of Standing List of Council Generated Future Agenda Items.**

A Council Member may make a request to City Council to place an item for which no notice has been given on a future agenda or may inquire about the status of an item on the standing list of council generated future agenda items. A Council Member's or City Staff's response to the request or inquiry will be limited to a statement of specific factual information related to the request or inquiry or the recitation of existing policy in response to the request or inquiry. Any deliberation of or decision about the subject of a request will be limited to a proposal to place the subject on the agenda for a subsequent meeting.

## **16. Adjourn.**

I certify that the above Notice of Meeting was posted on the website and at College Station City Hall, 1101 Texas Avenue, College Station, Texas, on February 3, 2023 at 5:00 p.m.



## City Secretary

This building is wheelchair accessible. Persons with disabilities who plan to attend this meeting and who may need accommodations, auxiliary aids, or services such as interpreters, readers, or large print are asked to contact the City Secretary's Office at (979) 764-3541, TDD at 1-800-735-2989, or email [adaassistance@cstx.gov](mailto:adaassistance@cstx.gov) at least two business days prior to the meeting so that appropriate arrangements can be made. If the City does not receive notification at least two business days prior to the meeting, the City will make a reasonable attempt to provide the necessary accommodations.

**Penal Code § 30.07. Trespass by License Holder with an Openly Carried Handgun.**

"Pursuant to Section 30.07, Penal Code (Trespass by License Holder with an Openly Carried Handgun) A Person Licensed under Subchapter H, Chapter 411, Government Code (Handgun Licensing Law), may not enter this Property with a Handgun that is Carried Openly."

**Codigo Penal § 30.07. Traspasar Portando Armas de Mano al Aire Libre con Licencia.**

"Conforme a la Seccion 30.07 del codigo penal (traspasar portando armas de mano al aire libre con licencia), personas con licencia bajo del Sub-Capitulo H, Capitulo 411, Codigo de Gobierno (Ley de licencias de arma de mano), no deben entrar a esta propiedad portando arma de mano al aire libre."

**February 9, 2023**  
**Item No. 7.1.**  
**Proclamation for Black History Month**

**Sponsor:** Barbara Moore, Assistant to the City Manager

**Reviewed By CBC:** City Council

**Agenda Caption:** Presentation of a proclamation recognizing Black History Month.

**Relationship to Strategic Goals:**

- Good Governance

**Recommendation(s):** None.

**Summary:** The Black History Month 2023 theme, "Black Resistance", celebrates how Black communities have worked collectively to serve and strengthen their communities, often "Making A Way Out of Now Way." African American communities continue to mobilize resources and shape movements to create space to thrive. We invite everyone to join us in exploring the history of the Black freedom movements from enslavement to abolition to struggles for civil and human rights.

**Budget & Financial Summary:** None.

**Attachments:**

None

**February 9, 2023**  
**Item No. 9.1.**  
**Minutes**

**Sponsor:** Tanya Smith, City Secretary

**Reviewed By CBC:** City Council

**Agenda Caption:** Presentation, discussion, and possible action of minutes for:

- January 26, 2023 Council Meeting

**Relationship to Strategic Goals:**

- Good Governance

**Recommendation(s):** Recommends Approval.

**Summary:** N/A

**Budget & Financial Summary:** None

**Attachments:**

1. CCM012623 DRAFT Minutes

MINUTES OF THE CITY COUNCIL MEETING  
IN-PERSON WITH TELECONFERENCE PARTICIPATION  
CITY OF COLLEGE STATION  
JANUARY 26, 2023

STATE OF TEXAS           §  
                                     §  
COUNTY OF BRAZOS     §

**Present:**

John Nichols, Mayor

**Council:**

Mark Smith  
William Wright  
Linda Harvell  
Elizabeth Cunha  
Bob Yancy  
Dennis Maloney

**City Staff:**

Bryan Woods, City Manager  
Jeff Capps, Deputy City Manager  
Adam Falco, City Attorney  
Leslie Whitten, Assistant City Attorney  
Tanya Smith, City Secretary  
Ian Whittenton, Deputy City Secretary

**1. Call to Order and Announce a Quorum is Present.**

With a quorum present, the meeting of the College Station City Council was called to order by Mayor Nichols via In-Person and Teleconference at 4:00 p.m. on January 26, 2023, in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77840.

**2. Executive Session**

In accordance with the Texas Government Code §551.071-Consultation with Attorney, and §551.074-Personnel, the College Station City Council convened into Executive Session at 4:00 p.m. on January 26, 2023, to continue discussing matters pertaining to:

**2.1. Consultation with Attorney to seek advice regarding pending or contemplated litigation, to wit:**

- Kathryn A. Stever-Harper as Executrix for the Estate of John Wesley Harper v. City of College Station and Judy Meeks; No. 15,977-PC in the County Court No. 1, Brazos County, Texas; and
- McCrory Investments II, LLC d/b/a Southwest Stor Mor v. City of College Station; Cause No. 17-000914-CV-361; In the 361st District Court, Brazos County, Texas; and
- Shana Elliott and Lawrence Kalke v. City of College Station, et al., Cause No. 22-001122-CV-85, in the 85th District Court, Brazos County, Texas



- Robert Danny Clack, II v. City of College Station, et al., Civil Action No. 4:22-cv-02404, in the U.S. District Court for the Southern District of Texas, Houston Division
- Kristin Marriott v. City of College Station, Cause No. 22-002259-CV-272, in the 272nd District Court, Brazos County, Texas
- Legal advice regarding City facility uses policies and the public's rental and use of City-owned buildings and facilities.

**2.3. Deliberation on the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer; to wit:**

- Zoning Board of Adjustments
- City Manager
- Council Self-Evaluation

**3. The Open Meeting will Reconvene No Earlier than 6:00 PM from Executive Session and City Council will take action, if any.**

Executive Session recessed at 6:00 p.m. No action was taken.

**4. Pledge of Allegiance, Invocation, consider absence request.**

**5. Hear Visitors Comments**

Charles Coats with the Habitat for Humanity wanted to applaud the City Council for the support they give towards the building of affordable housing.

**6. WORKSHOP ITEMS**

**6.1. Presentation, discussion, and possible action regarding proposals received in response to Request for Information 23-018 - Affordable Housing Development in College Station through the Texas Department of Housing and Community Affairs 2023 9% Low-Income Housing Tax Credit allocation process.**

Debbie Eller, Community Services Director, provided an overview of the need for more affordable rental units in College Station, the Fair Housing requirements, the 9% Low Income Housing Tax Credit program, and scoring criteria. She explained the details of two proposals received in response to Request for Information - Affordable Housing Development (RFI 23-018). Which included locations for each proposed development, type of development, number of rental units broken down by affordable and market rate, and basic amenities and services. City Council had several options available, including support of one application, none, all, or a combination: or providing a resolution of no objection to one, none, all or a combination.

Options:

- Resolution of Support = 17 points
- Resolution of No Objection = 14 points
- Take no action

Staff Recommendation is to "Take No Action" Based on:

- Requirement of Comp Plan amendment & Rezoning
- Loss of future commercial development

- Serenity Woods – insufficient sewer capacity

Henry Florals, Mad House Development, presented a brief overview of the reasoning for traditional Section 8 and Public Housing Programs. He explained that the HTC program provides private market developers and equity providers with an incentive to invest in affordable rental housing. Further, affordable housing is crucial for a community’s overall success, as it promotes inclusion, mitigates gentrification, and encourages responsible economic growth.

Rick Deyoe, Real Tex, presented a brief overview of the Serenity Hills proposed mixed income new construction senior housing community to be developed on a site located at the north side of Harvey Road at Veterans Parkway. The project will consist of a total of 105 one- and two-bedroom senior units.

**MOTION:** Upon a motion made by Councilmember Wright and a second by Councilmember Cunha, the City Council voted two (2) for and five (5) opposed, with Mayor Nichols and Councilmember Smith, Harvell, Yancy, and Maloney voting against, to support the Avanti Project for the location of Serenity Woods. The motion failed.

**MOTION:** Upon a motion made by Councilmember Yancy and a second by Councilmember Harvell, the City Council voted seven (7) for and none (0) opposed, to take no action on the proposals received in response to Request for Information 23-018 - Affordable Housing Development in College Station through the Texas Department of Housing and Community Affairs 2023 9% Low-Income Housing Tax Credit allocation process. The motion carried unanimously.

**6.2. Presentation, discussion, and possible action regarding the nature of Electric Vehicle (EV) Fast Charger stations and the City’s addition of a retail electric rate to address this new customer type.**

Glenn Gavit, Assistant Director of Electric, presented information on EV fast charging stations, which can place large demands on the electric system infrastructure but may not use a corresponding large amount of energy. He explained that these customers have the potential to exhibit a load factor which is not accounted for in our current rate structure, and this can represent a risk to the electric utility’s fixed cost recovery. College Station Utilities partnered with a consultant, NewGen Strategies & Solutions, to develop a rate structure to appropriately address that risk.

**Rate Ordinance**

Regional Utility	Commercial EV Rates/Structures
Pedernales Electric Coop	Small Power Service, Energy Only, TOU
Bryan Texas Utilities	Applicable Tariff
New Braunfels Utility	Applicable Tariff
Austin Energy	Subscription Service (ChargePoint)
CPS (San Antonio)	Subscription Service (ChargePoint), Pay Go (Energy TOU) Applicable Tariff with 80% Summer Demand Ratchet, Min. 100 kW Non-Summer
Georgetown	80% Demand Ratchet for Large EV Charger

Billing demand:

- Billed for 100% of designed demand in the first month after service is initiated
- Thereafter, billed monthly on the greater of the following:
  1. Actual measured maximum demand for the month
  2. 80% of peak actual measured demand over the preceding 12 months (on a rolling basis)
  3. 50% of design demand

## **7. CONSENT ITEMS**

**Presentation, discussion, and possible action on consent items which consist of ministerial, or "housekeeping" items as allowed by law: A Councilmember may request additional information at this time. Any Councilmember may remove an item from the Consent Agenda for a separate vote.**

Items 7.2 and 7.3 were pulled from Consent for clarification.

(7.2) Bryan Woods, City Manager, clarified that on the demands in the summer and the winter of the market. When we buy power, we must project that out, watch the funds and adjust the rates as the cost goes up. Jeff Kersten, Assistant City Manager, stated that the city used to purchase electricity at different rates in the summer and winter which allowed for a different rate being passed on to the customer for each season but that has not been the case for several years, so a single rate makes sense now.

(7.3) Jeff Kersten, Assistant City Manager, clarified that the Utility Customer Service department is undergoing a software upgrade as approved by Council. During configuration work, it was discovered that the calculation of late charges and penalties in the software is different than the current flat amount. To avoid costly change orders related to software customization, staff is recommending that the ordinance be revised to be in alignment with the software calculation. The software implementation date is tentatively scheduled to be completed in fiscal year 2024.

### **7.1. Presentation, discussion, and possible action of minutes for:**

- **January 12, 2023 Council Meeting**

**7.2. Presentation, discussion, and possible action on Resolution No. 01-26-23-7.2 the First Amendment to Resolution No. 08-25-22-8.4, that adopts fees, rates and charges as provided by Chapter 2 "Administration", Article V "Finance", Division 2 "Fees, Rates and Charges" of the Code of Ordinances, City of College Station, Texas.**

**7.3. Presentation, discussion, and possible action on Ordinance No. 2023-4416 amending Chapter 40, "Utilities," Article I, "In General," 40-11 "Payment of Bills" of the Code of Ordinances of the City of College Station, Texas, by amending certain sections relating to bill payment; providing a severability clause; declaring a penalty; and providing an effective date.**

**7.4. Presentation, discussion, and possible action regarding Ordinance No. 2023-4417 amending Chapter 40, "Utilities," Article III "Electric System," Division 2 "Rate Schedules," of the Code of Ordinances of the City of College Station, Texas, by amending Section 40-322 "Electric Rate Schedule TDA (transmission delivery adjustment)" and creating a new Section 40-326 "Electric Rate Schedule EV (electric vehicle fast charger);" providing a severability clause and an effective date.**

**7.5. Presentation, discussion, and possible action on a \$189,696 change order to the ten-year master service agreement with Axon Enterprise, Inc. (“AXON”) for cameras and storage for eight (8) additional patrol vehicles.**

**7.6. Presentation, discussion, and possible action regarding adoption of Resolution No. 01-26-23-7.6 consenting to the issuance of bonds by the Brazos County Municipal Utility District No. 1 in an amount not to exceed \$4,005,000 for water improvements.**

**7.7. Presentation, discussion, and possible action regarding the purchase of Advanced Metering Infrastructure (AMI) electric meters for Electric warehouse inventory stock from Landis+Gyr Technology, Inc. for an amount not to exceed \$216,023.96.**

**7.8. Presentation, discussion, and possible action on approving annual purchases of auto parts, shop equipment and services from NAPA Auto Parts through Purchasing Solutions Alliance purchasing cooperative not-to-exceed amount of \$180,000.**

**7.9. Presentation, discussion, and possible action on approving an annual blanket purchase order for parts and repair labor for fire trucks from Siddons-Martin Emergency Group through the BuyBoard Purchasing Cooperative not to exceed \$250,000.**

**7.10. Presentation, discussion, and possible action on approving annual tire purchases and retread services from Southern Tire Mart, LLC through the BuyBoard Purchasing Cooperative (Contract 636-21) in the annual not-to-exceed amount of \$310,000.**

**7.11. Presentation, discussion, and possible action regarding Resolution No. 01-26-23-7.11 the repealing of Resolution No. 2-23-2006-10.13 that will sunset the Joint Relief Funding Review Committee.**

**7.12. Presentation, discussion, and possible action regarding Resolution No. 01-26-23-7.12 accepting a \$170,920.84 grant from the Office of the Governor for purchasing bullet resistant shields for the police department.**

**7.13. Presentation, discussion, and possible action on revised Resolution No. 01-26-23-7.13 nominating FUJIFILM Diosynth Biotechnologies, LLC for designation by the Governor's Office of Economic Development and Tourism as a Texas Enterprise Project and repealing resolution number 10-13-22-8.11.**

**MOTION:** Upon a motion made by Councilmember Wright and a second by Councilmember Smith, the City Council voted seven (7) for and none (0) opposed, to approve the Consent Items except for Consent Item 7.2. The motion carried unanimously.

**(7.2) MOTION:** Upon a motion made by Councilmember Wright and a second by Councilmember Smith, the City Council voted six (6) for and one (1) opposed, with Councilmember Cunha voting against, to approve the Consent Item 7.2 Resolution No. 01-26-23-7.2 the First Amendment to Resolution No. 08-25-22-8.4, that adopts fees, rates and charges as provided by Chapter 2 “Administration”, Article V “Finance”, Division 2 “Fees, Rates and Charges” of the Code of Ordinances, City of College Station, Texas. The motion carried.

## **8. REGULAR ITEMS**

**8.1. Public Hearing, presentation, discussion, and possible action on Ordinance No. 2023-4418 vacating and abandoning a 0.274-acre portion of a variable width Public Utility Easement, said portion lying within Lot 2, Block 1, of the Traditions Subdivision Phase 23 according to the easement recorded in Volume 13417, Page 155, of the Official Records of Brazos County, Texas.**

Anthony Armstrong, Planning and Development, stated that the public utility easement abandonment is being requested by the applicant because of a desire to add an additional building that is part of the Fujifilm Campus Master Plan, Building 300. The previously existing water and electrical infrastructure that was existing in the easements have been removed and rerouted making the easement no longer necessary for the City's use.

At approximately 7:30 p.m., Mayor Nichols opened the Public Hearing.

There being no further comments, the Public Hearing was closed at 7:30 p.m.

**MOTION:** Upon a motion made by Councilmember Harvell, and a second by Councilmember Maloney, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2023-4418, vacating and abandoning a 0.274-acre portion of a variable width Public Utility Easement, said portion lying within Lot 2, Block 1, of the Traditions Subdivision Phase 23 according to the easement recorded in Volume 13417, Page 155, of the Official Records of Brazos County, Texas. The motion carried unanimously.

**8.2. Presentation, discussion, and possible action regarding the award of a contract to Brazos Paving, Inc. for base failure repairs and pavement reconstruction treatments in an amount not to exceed \$8,410,000. This item is for contracted equipment, labor, and materials for standard maintenance activities associated with asphalt streets.**

Emily Fisher, Public Works Director, stated that in response to bid 23-017, the city received four competitive sealed bids for base failure repairs and road reconstruction treatments for the City of College Station Street maintenance program. The contract is being awarded to the lowest qualified bidder, Brazos Paving, Inc. for an amount not to exceed \$8,410,000 and the contract term will be for the period beginning January 26, 2023 through January 25, 2024 with the option of two additional one-year renewals.

**MOTION:** Upon a motion made by Councilmember Smith, and a second by Councilmember Wright, the City Council voted seven (7) for and none (0) opposed, to approve an award of a contract to Brazos Paving, Inc. for base failure repairs and pavement reconstruction treatments in an amount not to exceed \$8,410,000. This item is for contracted equipment, labor, and materials for standard maintenance activities associated with asphalt streets. The motion carried unanimously.

**8.3. Presentation, discussion, and possible action regarding Resolution No. 01-26-23-8.3 forming a CDBG Public Service Agency Funding Review Committee.**

David Brower, Community Development Analyst, stated that at the January 12, 2023 meeting, City Council directed staff to create a citizen volunteer review committee. The proposed resolution creates a committee of no more than (6) members who will serve a staggered three (3) year terms. The committee will work with a staff liaison to review applications eligible for Community Development Block Grant funding and make recommendations to the City Council for approval with the Annual Action Plan and Community Development Budget. Staff presented a brief overview of the application, review, and allocation process the committee will utilize. The CDBG Public Service Agency Funding

Review Committee will review and consider all funding requests for CDBG Public Service Agency Funding and make appropriate recommendations to the City Council for their consideration. The Committee will allocate the allowable 15% of the annual Community Development Block Grant.

**MOTION:** Upon a motion made by Councilmember Maloney, and a second by Councilmember Smith, the City Council voted seven (7) for and none (0) opposed, to approve Resolution No. 01-26-23-8.3 forming a CDBG Public Service Agency Funding Review Committee. The motion carried unanimously.

**8.4. Presentation, discussion, and possible action regarding appointments to the following boards, committees, and commissions:**

- **Architectural Advisory Committee**
- **Audit Committee**
- **B/CS Library Board**
- **Bicycle, Pedestrian, and Greenways Advisory Board**
- **Design Review Board**
- **Zoning Board of Adjustments**

**(AAC) Architectural Advisory Committee**

- Jonathan Winkler for 2-year term

**MOTION:** Upon a motion made by Councilmember Smith, and a second by Councilmember Harvell, the City Council voted seven (7) for and none (0) opposed, to appoint members as stated to the Architectural Advisory Committee. The motion carried unanimously.

**Audit Committee**

- Michelle McMillin for 2-year term

**MOTION:** Upon a motion made by Councilmember Harvell, and a second by Councilmember Smith, the City Council voted seven (7) for and none (0) opposed, to appoint members as stated to the Audit Committee. The motion carried unanimously.

**B/CS Library Board**

- Megan Wilson for 2-year term
- Virginia Higdon for 2-year term

**MOTION:** Upon a motion made by Councilmember Harvell, and a second by Councilmember Wright, the City Council voted four (4) for and three (3) opposed, with Councilmember Smith, Cunha, and Maloney voting against, to appoint members as stated to the B/CS Library Board. The motion carried.

**(BPG) Bicycle, Pedestrian, and Greenways Advisory Board**

- Position A: Dennis Jansen for 3-year term
- Position B: Kathy Langlotz for 3-year term
- Position D: Neo Jang for 1-year unexpired term

**MOTION:** Upon a motion made by Councilmember Wright, and a second by Councilmember Harvell, the City Council voted seven (7) for and none (0) opposed, to appoint members as stated to the Bicycle, Pedestrian, and Greenways Advisory Board. The motion carried unanimously.



(DRB) Design Review Board

- Position A4: Cameron Nicole Gallucci for 3-year term
- Position A3: Barry David Ely for 3-year term

**MOTION:** Upon a motion made by Councilmember Yancy, and a second by Councilmember Smith, the City Council voted seven (7) for and none (0) opposed, to appoint members as stated to the Design Review Board. The motion carried unanimously.

(ZBA) Zoning Board of Adjustments

- Alternate 2: Roger Winckler for 2-year term

**MOTION:** Upon a motion made by Councilmember Harvell, and a second by Councilmember Wright, the City Council voted seven (7) for and none (0) opposed, to appoint members as stated to the Zoning Board of Adjustments. The motion carried unanimously.

**9. Council Calendar**

Council reviewed the calendar.

**10. Items of Community Interest: The Council may receive reports from a Council Member or City Staff about items of community interest for which notice has not been given, including: expressions of thanks, congratulations or condolence; information regarding holiday schedules; honorary or salutary recognitions of a public official, public employee, or other citizen; reminders of upcoming events organized or sponsored by the City of College Station; information about a social, ceremonial or community event organized or sponsored by an entity other than the City of College Station that is scheduled to be attended by a Council Member, another city official or staff of the City of College Station; and announcements involving an imminent threat to the public health and safety of people in the City of College Station that has arisen after the posting of the agenda.**

Mayor Nichols spoke on the passing of Joe Farey and Jim Jett, honoring their service to this community.

Councilmember Harvell spoke on the passing of Gary Ives, former member of the BCS Library Board and Historic Preservation Committee.

Councilmember Maloney wanted to show appreciation to the Parks and Recreation Department.

**11. Council Reports on Committees, Boards, and Commission: A Council Member may make a report regarding meetings of City Council boards and commissions or meetings of boards and committees on which a Council Member serves as a representative that have met since the last council meeting. (Committees listed in Coversheet)**

Councilmember Harvell reported on the Health Board.

Councilmember Smith reported on BVSWMA.

Councilmember Cunha reported on the (BPG) Bicycle, Pedestrian, and Greenways Advisory Board.

**12. Future Agenda Items and Review of Standing List of Council Generated Future Agenda Items: A Council Member may make a request to City Council to place an item for which no notice has been given on a future agenda or may inquire about the status of an item on the standing list of council generated future agenda items. A Council Member's or City Staff's response to the request or inquiry will be limited to a statement of specific factual information related to the request or inquiry or the recitation of existing policy in response to the request or inquiry. Any deliberation of or decision about the subject of a request will be limited to a proposal to place the subject on the agenda for a subsequent meeting.**

No future items at this time.

**13. Adjournment.**

There being no further business, Mayor Nichols adjourned the Meeting of the City Council at 8:17 p.m. on Thursday, January 26, 2023.

\_\_\_\_\_  
John P. Nichols, Mayor

ATTEST:

\_\_\_\_\_  
Tanya Smith, City Secretary



**February 9, 2023**  
**Item No. 9.2.**  
**Brannon Industrial Group Franchise Agreement**

**Sponsor:** Emily Fisher, Director of Public Works

**Reviewed By CBC:** City Council

**Agenda Caption:** Presentation, discussion, and possible action on the first reading of a franchise agreement ordinance with Brannon Industrial Group dba BVR Waste and Recycling for the collection of recyclables from commercial businesses and multi-family locations.

**Relationship to Strategic Goals:**

Core Services and Infrastructure

**Recommendation(s):** Staff recommends approval of this franchise agreement ordinance.

**Summary:** This item is an ordinance granting Brannon Industrial Group dba BVR Waste and Recycling (BVR) a non-exclusive franchise for the use of public streets, alleys, and public rights-of-ways within the city for the purpose of providing collection of demolition and construction debris, recyclables, and organic waste from commercial, industrial, and multi-family sites.

BVR is the city's current contractor for the collection of single-family single stream recycling. The single stream recycling contract is separate from this franchise agreement and was approved on April 9, 2020 for a five (5) year term.

This franchise agreement allows BVR to collect and haul recyclables and construction and demolition debris from commercial, industrial, and multi-family sites. This standard agreement sets the franchise fee based on the contractors monthly gross revenues, delivery revenues, and hauling revenues as well as the percentage of aggregate recycling and composting. Contractors must provide the total number of customers and total tons landfilled quarterly but are not required to disclose specific sites that are utilizing recycling services. The term of this agreement is five years.

Currently, the city has a total of sixteen (16) franchised haulers. This list can be found on the city's website under Public Works.

**Budget & Financial Summary:** N/A

**Attachments:**

1. BIG Franchise Agreement

**ORDINANCE NO. \_\_\_\_\_**

**RECYCLABLES COLLECTION FRANCHISE AGREEMENT**

**AN ORDINANCE GRANTING CONTRACTOR, BRANNON INDUSTRIAL GROUP DBA BVR WASTE AND RECYCLING, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE FRANCHISE FOR THE PRIVILEGE AND USE OF PUBLIC STREETS, ALLEYS, AND PUBLIC RIGHTS OF WAY WITHIN THE CORPORATE LIMITS OF THE CITY OF COLLEGE STATION (“CITY”) FOR THE PURPOSE OF PROVIDING COLLECTION OF DEMOLITION AND CONSTRUCTION DEBRIS, RECYCABLES, AND ORGANIC WASTE FROM COMMERCIAL, INDUSTRIAL, AND MULTI-FAMILY SITES; PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS, AND LIMITATIONS UNDER WHICH SAID FRANCHISE SHALL BE EXERCISED; PROVIDING FOR THE CONSIDERATION; FOR THE PERIOD OF THE GRANT; FOR ASSIGNMENT; FOR THE METHOD OF ACCEPTANCE; FOR REPEAL OF CONFLICTING ORDINANCES; FOR PARTIAL INVALIDITY.**

**WHEREAS**, the City, by ordinance, exclusively provides all solid waste collection and disposal services for solid waste aggregated from within the City limits including, but not limited to Recyclables; and

**WHEREAS**, the City pursuant to City Charter Article XI, may grant franchises to entities for use of public streets, alleys, and highways for collection of Solid Waste and Recyclables generated within the City limits; and

**WHEREAS**, the City of College Station desires to exercise the Charter’s authority and grant a non-exclusive franchise to Contractor for collection of demolition and construction debris and other waste for disposal using roll off containers, and recyclable materials, and organic waste from multifamily and commercial locations for the purpose of recycling.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS,**

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## ARTICLE I. DEFINITIONS

- 1.1 **Agreement** means this Franchise Agreement adopted by City Ordinance between City and Contractor for the collection of Recyclables within the City limits.
- 1.2 **Approved Customers** means those designated premises located within the City that generate Recyclables.
- 1.3 **Brazos Valley Solid Waste Management Agency, Inc. (BVSWMA, Inc.)** means the permitted municipal solid waste landfill and compost facility owned and operated by a Texas local government corporation.
- 1.4 **City Council or Council** means the governing body of the City of College Station, Texas.
- 1.5 **City** means the City of College Station, a Texas Home Rule Municipal Corporation.
- 1.6 **City's Representative** means the Recycling & Environmental Compliance Manager or the Manager's designated appointee.
- 1.7 **Collection** means the scheduled aggregation of Recyclables by Contractor.
- 1.8 **Construction and Demolition Debris** means buildings material waste resulting from demolition, remodeling, repairs, or construction, as well as materials discarded during periodic temporary facility clean-up generated within the City.
- 1.9 **Contaminated** means Recyclables mixed with solid waste or altered in a way that results in materials being unrecyclable or un-compostable.
- 1.10 **Contractor** means the Contractor franchised for the collection of Recyclables.
- 1.11 **Customers** means the locations designated by the City as a Commercial Business or Multifamily Residence.
- 1.12 **Organic Waste** means waste of biological origin recovered from the solid waste stream for the purposes of reuse, reclamation, or compost. Organic Waste is not solid waste, unless it is abandoned or disposed of, rather than reprocessed into another product.
- 1.13 **Receptacle** means a weatherproof container easily identifiable and designated for recycling or organic waste collection and shall not be made of any temporary materials.
- 1.14 **Recyclables or Recyclable Materials** mean materials, including construction and demolition debris recovered from the solid waste stream for the purpose of reuse or reclamation, a substantial portion of which are consistently used in the manufacture of products that may otherwise be produced using raw or virgin materials. Recyclable materials are not solid waste unless they are abandoned or disposed of as garbage rather than reprocessed into another product.

- 1.15 Residue** means the materials regularly associated with and attached to Recyclables, as a part of the original packaging or usage of that material that is not recyclable or compostable.
- 1.16 Roll-Off / Compactor** means a container of varying capacity used for Recyclables collection.
- 1.17 TAC** means the Texas Administrative Code now and as amended.
- 1.18 TCEQ** means the Texas Commission on Environmental Quality.

## **ARTICLE II. GRANT OF AUTHORITY AND ACCEPTANCE**

- 2.1 Non-Exclusive.** City grants Contractor a non-exclusive franchise to operate and establish Recyclables collection from designated Customers. Nothing in this Agreement shall be construed as granting an exclusive franchise or right. City grants Contractor passage and rights-of-way on, along, and across City streets, highways, alleys, public places and all other real property for collecting demolition and construction debris, recyclables and organic waste from commercial, industrial, multifamily and residential construction sites for the purpose of disposal and/or recycling within the jurisdictional limits of the City. Contractor is expressly prohibited from collecting any recyclables from completed residences that are covered by the City's residential single stream recycling contract and program. All collection, work, activity, and undertakings by Contractor are subject to this Agreement and City's governmental and police powers.
- 2.2 Acceptance.** By accepting this Agreement, Contractor represents it has, by careful examination, satisfied itself as to the nature and location of the services, character, quality, and quantity of services to be performed, the character of the equipment and facilities necessary to fulfill obligations under this Agreement, as well as the general and local conditions and all other matters affecting services performed under this Agreement.
- 2.3 Option to Market Materials.** If City develops services or programs resulting in materials that may be recycled or composted, including but not limited to residential construction sites, multifamily, or commercial recycling or composting, the City shall have the option to market those to any contractor.
- 2.4 Contract with City.** If City and Contractor contract for the collection and recycling or composting of materials, those terms will be incorporated into this Agreement by amendment.

## **ARTICLE III. PAYMENT AND TERM**

- 3.1 Franchise Fee.** For and in consideration of the grant of the franchise herein, Contractor agrees and will pay a Franchise Fee during the term of this Agreement, a sum based on the following graduated fee schedule depending on the percentage of aggregate recycling or composting accomplished:

- a. A fee is required, equivalent to five percent (5%) of Contractor's monthly gross revenues, delivery revenues, and hauling revenues; including rates as described in **Exhibit A**, generated from Contractor's provision of Recyclables collection services within the City if Contractor reports aggregate recycling or composting of at least sixty percent (60%) of Recyclables collected.
- b. A fee is required, equivalent to six and one half percent (6.5%) of Contractor's monthly gross revenues, delivery revenues, and hauling revenues; including rates as described in **Exhibit A**, generated from Contractor's provision of Recyclables collection services within the City if Contractor reports aggregate recycling or composting of at least fifty-five percent (55%) but less than sixty percent (60%) of Recyclables collected.
- c. A fee is required, equivalent to eight percent (8%) of Contractor's monthly gross revenues, delivery revenues, and hauling revenues; including rates as described in **Exhibit A**, generated from Contractor's provision of Recyclables collection services within the City if Contractor reports aggregate recycling or composting less than fifty-five percent (55%) of Recyclables collected.

**3.2 Payments.** Revenue received by Contractor from this Agreement is subject to the Franchise Fee and shall be computed into Contractor's monthly gross revenues, delivery revenues, hauling revenues, and rates, as described in **Exhibit A**. Payment will be paid quarterly to the City, and shall be due by the twentieth (20<sup>th</sup>) day of the month following the end of the previous calendar quarter. Payment after that date shall incur a ten percent (10%) late fee on the outstanding account balance under Article V.

**3.3 Failure to Pay.** Failure by Contractor to pay any amount due under this franchise constitutes a Failure to Perform under this contract and is subject to the provisions of Article XV. General Terms of this Agreement (Termination for Cause).

**3.4 Franchise Fee Requirements.** Payments must state on a form approved by the City:

- a. The number and type of Customers collected from, for the previous quarter, for Customers included in this Agreement.
- b. The total tons landfilled, recycled or composted, within the jurisdictional limits of the City, for the previous quarter.
- c. The total gross revenues for the previous calendar quarter, for revenues generated under this agreement.
- d. The total payment amount.

**3.5 Term.** The term of this Agreement shall be for a period of five (5) years, beginning on the date of acceptance and approval by City Council.

## ARTICLE IV. ACCESS TO RECORDS & REPORTING

- 4.1 Facilities.** The City shall have the right to inspect the Contractor's facilities, equipment, personnel, and operations to ensure compliance with this Agreement.
- 4.2 Records.** The City shall have the right to inspect Contractor's records, receipts, and all documentation relating to the performance of this Agreement. Those records include, but are not limited to, information concerning the quality and quantity of Recyclables collected, processed, and sold; number of Customers served, gross amounts paid to and paid by Contractor from the sale/processing of Recyclables. The City agrees to notify the Contractor at least twenty-four (24) hours prior to such inspection of operations and/or records.
- 4.3 Records Retention.** Contractor shall retain all records associated with this Agreement for a period of four (4) years. City shall have access to information regarding Contractor's markets and prices paid for each type of material's return/cost; all information obtained by City marked confidential or proprietary shall remain confidential or proprietary pursuant to the Texas Open Records Act.
- 4.4 Activity Report.** Contractor shall provide a Monthly Recycling Activity Report, on a form approved by the City, summarizing the previous month's collection. This report is due to the City's Representative no later than the twentieth (20<sup>th</sup>) calendar day of each month. Contractor's report shall include the following information:
- a. The Customer collection count, itemized by customer type.
  - b. Total tonnage of materials collected, recycled, composted and/or landfilled, itemized by type of material, within the jurisdictional limits of the City.
  - c. Any other information concerning the collections as required by the City's Representative.

## ARTICLE V. RATES TO BE CHARGED BY CONTRACTOR

- 5.1** The Contractor shall follow the Schedule of Rates attached hereto as **Exhibit A** for the services described herein. The rates provided shall be kept current and made available to the City's Representative within thirty (30) days of an adopted rate change. The Contractor agrees to use due diligence to keep costs from increasing.

## ARTICLE VI. APPEARANCE OF PERSONNEL AND EQUIPMENT

- 6.1 Equipment.** Contractor shall ensure all collection equipment and vehicles are attractively painted, well maintained and are in good working condition. Equipment must be washed at least one time per week. Equipment and vehicles must have sufficient carrying capacity for safe and efficient collection. The City shall have the right to inspect and approve the appearance of collection equipment. A standby vehicle shall be available at all times for collection.

- 6.2 Signage.** Contractor's vehicles shall at all times be clearly labeled with Contractor's name and phone number in visible letters and numbers not less than three (3) inches in height. Signage must be on both sides of the vehicle and placed in a conspicuous place. Only labeled vehicles shall perform collection activities under this Agreement. Contractor's roll-offs, compactors, and receptacles must be clearly marked as used for collection in letters at least twelve inches (12") in height on each side of the container.
- 6.3 Personnel.** All collection personnel shall wear a City-approved uniform to include, at minimum, matching labeled shirts with denim jeans or other standard work attire.

## **ARTICLE VII. COLLECTION AND TRANSPORT**

- 7.1 Transport.** The Contractor shall only transport collected materials for storage, processing, disposal, or other necessary handling to locations in a manner permitted by the terms of this Agreement as well as federal, state, and local law. This Agreement does not authorize Contractor to utilize the streets, alleys, and public ways to dispose of municipal solid waste or any other type of waste intended for disposal from any other project.
- 7.2 Cover.** During transport of materials all vehicles shall be covered to prevent release of litter.

## **ARTICLE VIII. PLACEMENT OF RECEPTACLES**

- 8.1 Placement.** All roll-offs, compactors, and receptacles placed in service shall be located in such a manner so as not to be a safety or traffic hazard. Under no circumstances shall Contractor place roll-offs, compactors, or receptacles on public streets, alleys, or thoroughfares without prior approval of the City's Representative. City reserves the right to designate the exact location of any or all roll-offs, compactors, or containers placed in service in the City.
- 8.2 City Collection.** Collections shall not interfere with the City's collection of municipal solid waste. Under no circumstances shall contractor place roll-offs, compactors, or receptacles in existing enclosures designated for City roll-offs, compactors, and receptacles.

## **ARTICLE IX. SERVICE COMPLAINTS**

- 9.1 Nature of Complaint.** Contractor shall handle directly any complaints pertaining to customer service, property damage, or personal injury from their commercial business and multifamily Recyclables collection service.
- 9.2 Intake.** Contractor shall develop written practices and procedures for receiving and resolving Customer complaints and collection issues. Any complaint received by the City shall be forwarded to the Contractor within one (1) business day of receipt.



- 9.3 Response.** Contractor shall respond to all complaints within one (1) business day of receiving a complaint from a Customer or notice of complaint from the City. Regardless of the nature of the complaint, Contractor shall report the action taken to the City in accordance with Article IV. Access to Records & Reporting.
- 9.4 Complaint Charges.** Upon receipt of ten (10) Customer complaints within a forty-five (45) day period, Contractor shall be assessed a charge of Three Hundred Dollars (\$300.00). Complaints are to be verified by the Contractor and the City's Representative. The City shall invoice the Contractor such charges.

## **ARTICLE X. DISPOSAL AND PROCESSING**

- 10.1 Disposal Site.** Unless approved otherwise in writing by the City, Contractor shall utilize BVSWM, Inc. Landfill for the disposal of all non-recyclable waste material collected by Contractor within the corporate limits of the City.
- 10.2 Processing Facility.** Contractor shall only use a City-approved recycling or composting facility for processing of all Recyclables collected by Contractor within the corporate limits of the City under this Agreement.

## **ARTICLE XI. VIOLATION AND PENALTY**

- 11.1 Fine.** It shall be unlawful for any person, firm or corporation to violate any provision or term of this Agreement and they shall receive a citation and fine not to exceed \$2,000.00 per offense per day. Each and every day a violation continues constitutes a separate offense.
- 11.2 Remedies.** In addition to any rights set out elsewhere in this Agreement, or other rights the City may possess at law or equity, the City reserves the right to apply any remedies, alone or in combination, in the event Contractor violates any provision of this Agreement. The remedies provided for in this Agreement are cumulative and not exclusive; the exercise of one remedy shall not prevent the exercise of another, or any rights of the City at law or equity.

## **ARTICLE XII. INSURANCE**

- 12.1** The Contractor shall procure and maintain, at its sole cost and expense for the term of this Agreement, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services performed by the Contractor, its agents, representatives, volunteers, employees, or subcontractors.
- 12.2** The Contractor's insurance shall list the City of College Station, its employees, agents, volunteers, and officials as additional insureds. Insurance requirements are attached in **Exhibit B**. Certificates of insurance evidencing the required insurance coverages are attached in **Exhibit C**.

### ARTICLE XIII. INDEMNIFICATION AND RELEASE

- 13.1 Indemnification.** Contractor shall indemnify, hold harmless, and defend the City, its officers, agents, volunteers, and employees from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work and services done by the Contractor under this Agreement. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Contractor, or any third party.
- 13.2 Release.** The Contractor assumes full responsibility for the work to be performed hereunder and hereby releases, relinquishes, and discharges the City, its officers, agents, volunteers, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person and any loss of or damage to any property caused by, alleged to be caused by, arising out of, or in connection with the Contractor's work and services to be performed hereunder. This release shall apply regardless of whether said claims, demands, and causes of action are covered in whole or in part by insurance and regardless of whether such injury, death, loss, or damage was caused in whole or in part by the negligence of the City, any other party released hereunder, the Contractor, or any third party.

### ARTICLE XIV. DISPUTES AND MEDIATION

- 14.1 Disputes.** If a dispute arises between City and Contractor during this Agreement, the dispute shall first be referred to the operational officers or representatives designated by the parties having oversight of the Agreement's administration. The officers or representatives shall meet within thirty (30) days of either party's request for a meeting, whichever request is first, and the parties shall make a good faith effort to achieve a resolution of the dispute.
- 14.2 Mediation.** If the parties are not able to resolve the dispute under the procedure in this article, then the parties agree the matter shall be referred to non-binding mediation. The parties shall mutually agree upon a mediator to assist in resolving their differences. If the parties cannot agree upon a mediator, the parties shall jointly obtain a list of three (3) mediators from a reputable dispute resolution organization and alternate striking mediators on that list until one remains. A coin toss shall determine who may strike the first name. If a party fails to notify the other party of which mediator it has stricken within two (2) business days, the other party shall select the mediator from those mediators remaining on the list. The parties shall pay their own expenses of any mediation and will share the cost of the mediator's services.
- 14.3 Other Remedies.** If the parties fail to achieve a resolution of the dispute through mediation, either party may then pursue any available judicial remedies.

## ARTICLE XV. GENERAL TERMS

- 15.1 Performance.** Contractor, its employees, associates, or subcontractors shall perform all the services in a professional manner and be fully qualified and competent to perform those services.
- 15.2 Termination.**
- a. For Convenience.** At any time, the City or Contractor may terminate this Agreement for convenience, in writing with thirty (30) days' written notice. City shall be compensated for outstanding Franchise Fees.
  - b. For Cause.** City may terminate this Agreement if Contractor materially breaches or otherwise fails to perform, comply with or otherwise observe any of the terms and conditions of this Agreement, or fails to maintain all required licenses and approvals from federal, state, and local jurisdictions, and fails to cure such breach or default within thirty (30) days of City providing Contractor written notice, or, if not reasonably capable of being cured within thirty (30) calendar days, within such other reasonable period of time upon which the parties may agree.
  - c. Hearing.** This Agreement shall not be terminated except upon a majority vote of the City Council, after giving reasonable notice to Contractor. The Contractor will have an opportunity to be heard, provided if exigent circumstances necessitate immediate termination, the hearing may be held as soon as possible after the termination.
- 15.3 Venue.** This Contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Brazos County, Texas.
- 15.4 Amendment.** This Agreement may only be amended by written instrument approved and executed by the parties.
- 15.5 Taxes.** The City is tax exempt and is not responsible for the payment of any taxes.
- 15.6 Compliance with Laws.** The Contractor will comply with all applicable federal, state, and local statutes, regulations, ordinances, and other laws, including but not limited to the Immigration Reform and Control (IRCA). The Contractor may not knowingly obtain the labor or services of an undocumented worker. The Contractor, not the City, must verify eligibility for employment as required by IRCA.
- 15.7 Waiver of Terms.** No waiver or deferral by either party of any term or condition of this Contract shall be deemed or construed to be a waiver of deferral of any other term or condition or subsequent waiver or deferral of the same term or condition.

**15.8 Assignment.** This Agreement and the rights and obligations contained herein may not be assigned by the Contractor without the prior written approval of City.

**15.9 Invalid Provisions.** If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court of competent jurisdiction finds that any provision of this Agreement is invalid or unenforceable, and if by limiting that provision, the Agreement may become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

**15.10 Entire Agreement.** This Agreement represents the entire agreement between the City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

**15.11 Agree to Terms.** The parties' state they have read the terms and conditions of this Agreement and agree to the terms and conditions. Contractor shall evidence its unconditional written acceptance of all the terms and conditions of this Agreement by the execution of this Agreement.

**15.12 Effective Date.** According to City Charter, Section 105, after passage, approval and legal publication of this Agreement as provided by law, and provided it has been duly accepted by Contractor as herein above provided, this Agreement shall not take effect until sixty (60) days after its adoption on its second and final reading.

**15.13 Notice.** Any official notice under this Agreement will be sent to the following addresses:

City of College Station  
Attn: Caroline Ask  
PO BOX 9960  
College Station, TX 77842  
cask@cstx.gov

Brannon Industrial Group  
dba BVR Waste and Recycling  
Attn: Blake Brannon  
Brenham, TX 77833  
bbrannon@bigcompany.com

**15.14 List of Exhibits.** All exhibits to this Agreement are incorporated and made part of this Agreement for all purposes.

- A. Schedule of Rates
- B. Insurance Requirements
- C. Certificates of Insurance

**15.15 Public Meetings and Readings.** This Agreement was passed, adopted and approved according to Texas Government Code Chapter 551.

- a. First Consideration & Approval on the 9th day of February, 2023.
- b. Second Consideration & Approval on the 23rd day of February, 2023.

**BRANNON INDUSTRIAL GROUP**  
dba BVR Waste and Recycling

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: **Owner/Member**

Date: \_\_\_\_\_

**CITY OF COLLEGE STATION**

By: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
City Secretary

Date: \_\_\_\_\_

**APPROVED:**

\_\_\_\_\_  
City Manager

Date: \_\_\_\_\_

\_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_

\_\_\_\_\_  
Assistant City Manager/CFO

Date: \_\_\_\_\_

## **EXHIBIT A. SCHEDULE OF RATES**

- I. Contractor's base rate is \$200.00 per month, and may increase, depending on a variety of conditions, including but not limited to:
  - a. Location of Customer
  - b. Impact on Existing Routes
  - c. Ingress and Egress Capabilities
  - d. Special Requests by Customers
  - e. Frequency of Collections
  - f. Volume of Materials
  - g. Type of Materials
  - h. External Contributing Conditions of Market Costs

## **EXHIBIT B. INSURANCE REQUIREMENTS**

Throughout the term of this Agreement the Contractor must comply with the following:

### **I. Standard Insurance Policies Required:**

- a. Commercial General Liability
- b. Business Automobile Liability
- c. Workers' Compensation

### **II. General Requirements Applicable to All Policies:**

- a. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent.
- b. Certificates of Insurance and endorsements shall be furnished on the most current State of Texas Department of Insurance-approved forms to the City's Representative at the time of execution of this Agreement; shall be attached to this Agreement as **Exhibit C**; and shall be approved by the City before work begins.
- c. Contractor shall be responsible for all deductibles on any policies obtained in compliance with this Agreement. Deductibles shall be listed on the Certificate of Insurance and are acceptable on a per-occurrence basis only.
- d. The City will accept only licensed Insurance Carriers authorized to do business in the State of Texas.
- e. The City will not accept "claims made" policies.
- f. Coverage shall not be suspended, canceled, non-renewed or reduced in limits of liability before thirty (30) days written notice has been given to the City.

### **III. Commercial General Liability**

- a. General Liability insurance shall be written by a carrier rated "A: VIII" or better under the current A. M. Best Key Rating Guide.
- b. Policies shall contain an endorsement listing the City as Additional Insured and further providing "primary and non-contributory" language with regard to self-insurance or any insurance the City may have or obtain.
- c. Limits of liability must be equal to or greater than \$500,000 per occurrence for bodily injury and property damage, with an annual aggregate limit of \$1,000,000. Limits shall be endorsed to be per project.
- d. No coverage shall be excluded from the standard policy without notification of individual exclusions being submitted for the City's review and acceptance
- e. The coverage shall include, but not be limited to the following:  
premises/operations with separate aggregate; independent contracts;  
products/completed operations; contractual liability (insuring the indemnity provided herein) Host Liquor Liability, and Personal & Advertising Liability.

#### **IV. Business Automobile Liability**

- a. Business Automobile Liability insurance shall be written by a carrier rated "A: VIII" or better under the current A. M. Best Key Rating Guide.
- b. Policies shall contain an endorsement listing the City as Additional Insured and further providing "primary and non-contributory" language with regard to self-insurance or any insurance the City may have or obtain
- c. Combined Single Limit of Liability not less than \$1,000,000 per occurrence for bodily injury and property damage.
- d. The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section in Item 2 of the declarations page
- e. The coverage shall include any autos, owned autos, leased or rented autos, non-owned autos, and hired autos.

#### **V. Workers' Compensation Insurance**

- a. Workers compensation insurance shall include the following terms:
  - i. Employer's Liability minimum limits of liability not less than \$500,000 for each accident/each disease/each employee are required
  - ii. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy
  - iii. TEXAS must appear in Item 3A of the Workers' Compensation coverage or Item 3C must contain the following: "All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY"



## **EXHIBIT C. CERTIFICATES OF INSURANCE**



BRANIND-02

CYREID

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/6/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Hibbs - Hallmark & Co 6750 Hillcrest Plaza Suite 219 Dallas, TX 75230	<b>CONTACT NAME:</b> <b>PHONE (A/C, No, Ext):</b> (972) 385-3726 <b>FAX (A/C, No):</b> (972) 385-3245 <b>E-MAIL ADDRESS:</b>	
	<b>INSURER(S) AFFORDING COVERAGE</b>	<b>NAIC #</b>
	<b>INSURER A : American Fire and Casualty Company</b>	<b>24066</b>
	<b>INSURER B : West American Insurance Company</b>	<b>44393</b>
	<b>INSURER C : Ohio Casualty Ins. Co.</b>	<b>24074</b>
	<b>INSURER D : Texas Mutual Insurance Company</b>	<b>22945</b>
	<b>INSURER E : Mount Hawley Ins Co</b>	<b>37974</b>
	<b>INSURER F : GuideOne National Insurance Company</b>	<b>14167</b>

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X	X	BKA59827349	5/17/2022	5/17/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	BAW59827349	5/17/2022	5/17/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			USO59827349	5/17/2022	5/17/2023	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
D	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N N	X	0002012878	5/17/2022	5/17/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
E	Pollution Liability			EGL0010185	11/23/2022	11/23/2023	Pollution Liability 3,000,000
F	Commercial Excess			56000121003	5/17/2022	5/17/2023	Occurrence/Aggregate 3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
City of College Station, its officials, agents, employees & volunteers is included as additional insured as respects general & auto liability as required by written contract. The general liability policy is on a primary and non-contributory basis as required by written contract as required by written contract. Waiver of subrogation as respects worker's compensation and general & auto liability as required by written contract. Umbrella follows form on the general & auto liability.

## CERTIFICATE HOLDER

## CANCELLATION

City of College Station, its officials, agents Attn: Risk Management PO Box 9960 College Station, TX 77842	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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**February 9, 2023**

**Item No. 9.3.**

**Rock Prairie West, Greens Prairie and Cain/Deacon Contingencies**

**Sponsor:** Jennifer Cain, Director Capital Projects

**Reviewed By CBC:** City Council

**Agenda Caption:** Presentation, discussion, and possible action regarding the addition of a \$300,000 contingency amount for the Rock Prairie West Project, a \$440,000 contingency amount for the Greens Prairie Ph. 2 Widening Project, and a \$390,250 contingency amount for the Cain/Deacon Railroad Crossing Project. Approval of this item grants authority for the City Manager to authorize expenditures up to the City's contingency amount for each identified project.

**Relationship to Strategic Goals:**

Core Services and Infrastructure

**Recommendation(s):** Staff recommends approval.

**Summary:** The following three projects are currently under construction. When each of these construction contracts were awarded, they did not include a contingency. Contingency funds are considered best practice (typically 5-10%) to include for a construction project. These funds can be used for various reasons including, but not limited to: unforeseen items, differing site conditions, design changes, railroad requirements and added scope. The recommended contingency amounts below are already included in the approved project budgets.

The **Rock Prairie West Project** includes widening to two lanes with a center turn lane from Wellborn Road Rd to the City Limits. The project includes installation of a traffic signal at Wellborn Road, construction of concrete pavement and sidewalks, and drainage improvements. This project includes railroad work at the Rock Prairie/Wellborn intersection. Working along the railroad can have unpredictable delays and associated costs due to factors involving Union Pacific Railroad (UPRR) which are beyond the City's control. Requesting 6% of the contract amount \$4,992,868.45 for a total of \$300,000 in contingency.

The **Greens Prairie Ph 2 Widening Project** includes widening to four lanes with a center median from Arrington Rd to the county line. The project includes installation of a traffic signal at Castlegate Drive, construction of concrete pavement, underground storm sewer, and sidewalks. Requesting 5% of the original contract amount of \$8,799,523.75 for a total of \$440,000 in contingency.

The **Deacon/Cain RR Crossing Project** includes the roadway extension of Deacon Dr. W to FM 2154 with a new railroad crossing, installation of a traffic signal and the removal of the existing Cain Road railroad crossing. Working along the railroad can have unpredictable delays and associated costs due to factors involving UPRR which are beyond the City's control. The roadway extension is being constructed with concrete pavement with curb, underground storm sewer, and sidewalks. In order to connect Deacon Dr. across the tracks, FM2154 is being raised in that area. Requesting 7.5% of the original contract amount of \$5,203,379.80 for a total of \$390,250 in contingency.

Approval of this item grants authority for the City Manager to authorize expenditures up to the City's contingency amount for the Rock Prairie West Project, Greens Prairie Phase 2 Project and Deacon/Cain Railroad Crossing Project.

**Budget & Financial Summary:** There are sufficient funds available for the Rock Prairie West Project, Greens Prairie Phase 2 Project and Deacon/Cain Railroad Crossing Project contingencies. These contingency amounts are already included in the approved project budgets. Therefore, this item is not a budget amendment and is not increasing the projects' budgets.

**Attachments:**

None

**February 9, 2023**

**Item No. 9.4.**

Commitment Schedule for HUD Note

**Sponsor:** Debbie Eller, Director of Community Services

**Reviewed By CBC:** City Council

**Agenda Caption:** Presentation, discussion, and possible action regarding the adoption of a resolution supplementing Resolution 12-08-22-9.10 to approve of a revised Commitment Schedule in the Note with the U.S. Department of Housing and Urban Development Section 108 Loan Guarantee Program for the rehabilitation of LULAC Oak Hill Apartments.

**Relationship to Strategic Goals:**

Core Services & Infrastructure

**Recommendation(s):** Staff recommends the approval of the Resolution.

**Summary:** In April 2022, Council adopted Resolution 04-28-22-8.5, that authorized a promissory note in the principal amount of \$2,808,000, pursuant to the Loan Guarantee Assistance Under Section 108 of the Housing Community Development Act of 1974 and authorized the City Manager to execute the contracts following the approval by the Texas Attorney General. In December of 2022, Council adopted Supplementing Resolution 12-08-22-9.10 that added specific language required by the Texas Attorney General. This resolution adopts the revised Commitment Schedule with updated dates which the Texas Attorney General requires prior to final approval of the Note.

At the April 22, 2021 meeting, City Council approved the application to the U. S. Department of Housing and Urban Development (HUD) for a Section 108 Loan to provide funding to L.U.L.A.C. Oak Hill, Inc. for the cost of construction and permanent financing for the rehabilitation of its property located at 1105 Anderson. The Section 108 program is a provision of the Community Development Block Grant (CDBG) program and allows Entitlement Communities to borrow up to five times their current annual grant amount. Future CDBG allocations guarantee the loan. Section 108 loans can be used as a source of financing for economic development, housing rehabilitation, public facilities, and infrastructure.

LULAC Oak Hill Apartments were developed originally through the Section 202 Supportive Housing for the Elderly program. Therefore, 100% of the residents are at or below 50% of the area median income. Residents must also be 62 years of age or older. Therefore, this activity meets the objective of assisting low-to-moderate income residents and the goal identified in the 2020 – 2024 Consolidated Plan of addressing Rental Housing – Rehabilitation for Special Needs populations.

LULAC Oak Hill Apartments is a 50-unit property constructed over 40 years ago to provide housing for low-income elderly residents and persons with disabilities. The property has never undergone substantial rehabilitation and many of its components are well beyond their useful life and in poor condition. The work will include complete interior and exterior renovations that will increase the safety for the tenants and include energy-efficient upgrades. As the property maintains 100% occupancy, temporary relocation will take place while each unit is being renovated. Relocation expenses will include housing, storage, and moving expenses for each tenant. This project will ensure safe, decent, affordable housing for the City's low-income elderly population for many years.

The application for \$2,808,000 was approved by HUD on August 17, 2021.

**Budget & Financial Summary:** The amount loaned to L.U.L.A.C Oak Hill, Inc. would be in the form of a 0% interest loan and that interest payments and guarantee fee of 2.15% required by the Section 108 loan will be paid out of the Community Development fund as a CDBG expense.

**Attachments:**

1. Attachment 2 - Note with Revised Commitment Schedule
2. Attachment 1 - 2nd Amended Resolution

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
SECTION 108 LOAN GUARANTEE PROGRAM**

**VARIABLE/FIXED RATE NOTE**

NOTE NUMBER: **B-20-MC-48-0007**

BORROWER: **City of College Station,  
Texas**

**[LULAC Oak Hill Apartments Project]**

DATE OF NOTE: \_\_\_\_\_

PRINCIPAL DUE DATES AND PRINCIPAL AMOUNT: Before the Conversion Date, the aggregate of Advances made for each applicable Principal Due Date specified in the Commitment Schedule to this Note; on or after the Conversion Date, the Principal Amount (if any) listed for each Principal Due Date in Schedule P & I hereto.

MAXIMUM COMMITMENT  
AMOUNT: **\$2,808,000**

COMMITMENT AMOUNTS: See  
Commitment Schedule attached hereto.

VARIABLE INTEREST RATE: As set forth below.

REGISTERED HOLDER: Daedalus & Co  
As Nominee for  
Federated Hermes Money Market Obligations Trust  
on behalf of its Federated Hermes Government  
Obligations Fund

**I. Terms Applicable Before the Conversion Date**

A. Advances

For value received, the undersigned, the City of College Station (the "Borrower"), which term includes any successors and assigns, a public entity organized and existing under the laws of the State (or Commonwealth as applicable) of Texas, promises to pay to the Registered Holder (the "Holder," which term includes any successors or assigns), at the time, in the manner, and with

interest at the rate or rates hereinafter provided, such amounts as may be advanced under this Note from time to time by the Holder for disbursement to, or on behalf of, the Borrower (individually, an "Advance", and collectively, "Advances"). The Holder shall make Advances upon the written request of the Borrower and the approval of the Secretary of Housing and Urban Development or his designee (the "Secretary"), pursuant to the Contract for Loan Guarantee Assistance (as further defined in Section IV.A. of this Note, the "Contract"), and the Amended and Restated Master Fiscal Agency Agreement (the "Fiscal Agency Agreement") dated as of May 17, 2000, between The Bank of New York Mellon (successor to The Chase Manhattan Bank and JPMorgan Chase Bank, N.A.), as Fiscal Agent (the "Fiscal Agent"), and the Secretary. The total amount of Advances made for each Principal Due Date under this Note shall not exceed the applicable Commitment Amount for such Principal Due Date set forth on the Commitment Schedule attached hereto. The aggregate of all Advances under this Note for all Principal Due Dates shall not exceed the Maximum Commitment Amount specified on the attached Commitment Schedule. The Fiscal Agent shall record the date and amount of all payments and Advances on this Note and maintain the books and records of all such Advances and Commitment Amounts for each corresponding Principal Due Date, and all payments. No Advances shall be made on this Note after its Conversion Date.

As used herein, "Conversion Date" means the date (if any) upon which this Note is (i) delivered by the Holder to the Fiscal Agent against payment therefore by the purchasers selected by the Secretary to make such payment; and (ii) assigned to Bank of New York Mellon (or any successor thereto) acting in its capacity as Trustee (the "Trustee") pursuant to a Trust Agreement between the Secretary and the Trustee, dated as of January 1, 1995, as such agreement may be amended or supplemented (the "Trust Agreement"). Upon the occurrence of both (i) and (ii) in the previous sentence, Section III of this Note applies, thereby converting this Note to a fixed rate obligation.

**B. Variable Rate of Interest**

From and including the date of each Advance to but excluding the earlier of (i) the Conversion Date, and (ii) the date of redemption or prepayment of such Advance pursuant to Section I.D. below (each such date of redemption or prepayment, a "Prepayment Date") interest shall be paid quarterly at a variable interest rate (as set forth below) on the unpaid principal balance of each Advance on the first day of each February, May, August and November (each, an "Interim Payment Date"), commencing on the first Interim Payment Date after the initial Advance is made under this Note. Interest also shall be paid on each applicable Conversion Date, Prepayment Date or Principal Due Date. The amount of interest payable on each Interim Payment Date will represent interest accrued during the three-month period ending immediately prior to such Interim Payment Date, or in the case of the first Interim Payment Date following each Advance that is not made on an Interim Payment Date, the period from and including the date of such Advance to but excluding the first Interim Payment Date following such Advance. The amount of interest payable on this Note's Conversion Date, Prepayment Date, or on any Principal Due Date that precedes such Conversion Date will represent interest accrued during the period from the last Interim Payment Date to such Conversion Date, Prepayment Date, or Principal Due Date, respectively.



The initial variable interest rate for each Advance will be set on the date of such Advance and will be equal to the Applicable Rate (as hereinafter defined) and thereafter will be adjusted monthly on the first day of each month (each, a "Reset Date") to a variable interest rate equal to the Applicable Rate (such interest rate, as reset from time to time, the "Standard Note Rate"). If Secretary and Holder agree to a Subsequent Rate (as hereinafter defined) and Subsequent Variable Interest Rate (as hereinafter defined) pursuant to paragraph IV.H. of this Note, the Secretary shall notify the Fiscal Agent in writing of any Subsequent Rate and Subsequent Variable Interest Rate within two Business Days of the determination thereof. If the Conversion Date for this Note has not occurred by the March 1 following the initial Advance under this Note, then the terms of Appendix A shall be used to set the variable interest rate. If the Fiscal Agent does not receive notice of either a Negotiated Special Interest Rate or Holder Determined Special Interest Rate (as defined in Appendix A attached hereto) from the Secretary or Holder, respectively, by the times specified in Appendix A to this Note, then the Standard Note Rate shall apply for the period to which such Negotiated Special Interest Rate or Holder Determined Special Interest Rate would otherwise apply. The Fiscal Agent may conclusively rely on any such notice as to the correctness of any matters set forth therein. Appendix A shall be inapplicable to this Note on or after the Conversion Date.

"3-Month T-Bill Rate" for any given Business Day means, except in the case of manifest error, the High Rate announced in the most recent Treasury Auction Results release corresponding to the 13-Week Bill auction with an auction date on a day preceding the initial Advance, or for subsequent Advances, the most recent Reset Date (but not with respect to an auction published on any Reset Date), as published on TreasuryDirect or any successor publication, published by the U.S. Department of the Treasury Bureau of the Fiscal Service, under the "Financial Institutions" heading (or any successor heading), in the section titled "Announcements, Data & Results" (or any successor section) and under the subsection "Bills – Security Term: 13-Week" (or any successor caption). If, as of any Reset Date, such rate was not published on TreasuryDirect or any successor publication any day since the immediately preceding Reset Date, for each interest period, the 3-Month T-Bill Rate shall be the yield on Treasury Bills (secondary market) with 3-month maturity, as reported in Federal Reserve Statistical Release H. 15, Selected Interest Rates of the Board of Governors of the Federal Reserve System (or any successor publication).

Prior to the effective date of a Subsequent Rate and Subsequent Variable Interest Rate established by an amendment to this Note pursuant to paragraph IV.H. of this Note, "Applicable Rate" means: (1) with respect to the initial interest rate for the first Advance hereunder, 35 basis points (0.35%) above the 3-Month T-Bill Rate one New York Banking Day before the date of such first Advance; (2) with respect to the initial interest rate for any subsequent Advance made before the first Reset Date, the interest rate borne by the first Advance; (3) with respect to the initial interest rate for any subsequent Advance made after the first Reset Date, 35 basis points (0.35%) above the 3-Month T-Bill Rate one New York Banking Day before the immediately preceding Reset Date; and (4) with respect to the subsequent interest rate at any Reset Date for any Advance, 35 basis points (0.35%) above the 3-Month T-Bill Rate one New York Banking Day before such Reset Date.

Upon the effective date of a Subsequent Rate and Subsequent Variable Interest Rate established by an amendment to this Note pursuant to paragraph IV.H. of this Note, “Applicable Rate” means the Subsequent Variable Interest Rate.

“New York Banking Day” means any day in which dealings in deposits in United States dollars are transacted in the New York interbank market. Interest payable on or before the Conversion Date shall be calculated on the basis of a 360-day year and the actual number of days lapsed.

“Subsequent Rate” means the rate, as agreed upon by Secretary and Holder, that shall be used in lieu of the 3-Month T-Bill Rate to establish the Applicable Rate, upon agreement between the Secretary and Holder. The Subsequent Rate shall be a rate that is publicly available daily.

“Subsequent Variable Interest Rate” means the interest rate for each Advance that will be set on the date of such Advance and will be equal to a specific amount of basis points above or below the Subsequent Rate, and thereafter will be adjusted monthly on the Reset Date to an interest rate equal to a specific amount of basis points above or below the Subsequent Rate, all as agreed upon by the Secretary and Holder pursuant to paragraph IV.H. of this Note.

C. Principal Amount

Prior to the Conversion Date, the aggregate amount of Advances under this Note for each specified Principal Due Date shall be the Principal Amount paid by the Borrower on such Principal Due Date (as assigned to such Advances by the Secretary's instructions to the Fiscal Agent in accordance with the Contract and the Fiscal Agency Agreement), except to the extent such Principal Amount shall have been reduced by redemption before such Principal Due Date as provided below.

D. Redemption before Conversion Date

At any time on or before the Conversion Date, the Borrower, with the consent of the Secretary, may redeem this Note, in whole or in part, upon fourteen calendar days notice to the Fiscal Agent and the Secretary, at the purchase price of one hundred percent (100%) of the unpaid Principal Amount to be redeemed, plus accrued interest thereon to the date of redemption. Partial redemptions shall be credited against the applicable Principal Amount(s). The related Commitment Amounts and the Maximum Commitment Amount shall be adjusted concurrently with any such redemptions in accordance with the Secretary's instructions to the Fiscal Agent pursuant to the Contract and the Fiscal Agency Agreement.

## II. Conversion

The following events shall occur on the Conversion Date:

A. Schedule P&I

On the Conversion Date all Advances owed by the Borrower under this Note with the same Principal Due Date shall be aggregated into a single Principal Amount which will accrue interest at the fixed rate applicable to such Principal Due Date. Such Principal Amount may be adjusted by the Fiscal Agent in accordance with the following paragraph or paragraph IV.H, as applicable. Whether or not adjusted, each Principal Amount, the fixed rate applicable to each Principal Amount, and the applicable Principal Due Date, shall be listed by the Secretary in Schedule P&I. Schedule P&I will be provided by the Secretary to the Fiscal Agent and attached to this Note by the Fiscal Agent upon the Fiscal Agent's receipt of this Note on the Conversion Date.

B. Conversion Date Advances

If, on or prior to the Conversion Date, the Borrower has not utilized the entire Commitment Amount indicated on the Commitment Schedule attached hereto for a given Principal Due Date, the Borrower may, in accordance with the Fiscal Agency Agreement and the Contract, and with the approval of the Secretary, utilize such Commitment Amount on the Conversion Date to obtain a Conversion Date Advance. A "Conversion Date Advance" shall mean any amount by which the Secretary instructs the Fiscal Agent to increase a Principal Amount on Schedule P&I for a given Principal Due Date, effective as of the Conversion Date of this Note. Conversion Date Advances shall be funded by the sale of this Note to the purchaser selected by the Secretary. The proceeds of a Conversion Date Advance (net of any applicable fees) shall be distributed to or on behalf of the Borrower on the Conversion Date. The total amount of Conversion Date Advances hereunder shall not exceed the sum of any unused Commitment Amounts for all Principal Due Dates.

### **III. Terms Applicable Upon Conversion**

The following terms shall apply to this Note from the Conversion Date (if any) until this Note is canceled, or matured and paid in full:

Commencing on the Conversion Date, the Borrower promises to pay to the Holder on the applicable Principal Due Date each Principal Amount set forth on the attached Schedule P&I, together with interest on each such Principal Amount at the rate applicable thereto specified on the Schedule P&I. Interest shall be calculated and payments shall be made in the manner set forth below.

Interest on each scheduled Principal Amount of this Note due as of a given date specified on Schedule P&I hereto shall accrue at the related per annum rate specified on Schedule P&I from (and including) the Conversion Date to (but excluding) such Principal Due Date or, if applicable, to the applicable Interest Due Date on which an Optional Redemption (as defined below) occurs. Each interest amount accrued on each unpaid Principal Amount of this Note shall be due semiannually as of February 1 and August 1 of each year (each such February 1 and August 1, an "Interest Due Date") commencing on the first such date after the Conversion Date, until each Principal Amount listed on Schedule P&I to this Note is paid in full. Interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

Certain Principal Amounts that are indicated as being eligible for Optional Redemption on Schedule P&I may be paid, in whole or in part, at the option of the Borrower as of any Interest Due Date on or after the date specified in such schedule (an "Optional Redemption"). In order to elect an Optional Redemption of such a Principal Amount, the Borrower shall give notice of its intention to prepay a Principal Amount to the Trustee and the Secretary not less than 60 days and not more than 90 days prior to the Interest Due Date as of which the Borrower intends to prepay the Principal Amount. The Trustee shall apply any payments received in respect of Optional Redemptions in accordance with written instructions of the Borrower, as approved by the Secretary. Principal Amounts that are not indicated as being eligible for Optional Redemption on Schedule P&I may not be prepaid.

#### **IV. General Terms**

##### **A. Additional Definitions**

For purposes of this Note, the following terms shall be defined as follows:

"Business Day" shall mean a day on which banking institutions in New York City are not required or authorized to remain closed and on which the Federal Reserve Bank and the New York Stock Exchange are not closed. If any payment (including a payment by the Secretary) is required to be made on a day that is not a Business Day, then payment shall be made on the next Business Day.

"Contract" shall mean the Contract for Loan Guarantee Assistance, and any amendments thereto, among the Secretary and the Borrower, the designated public entity named therein (if applicable), and the State named therein (if applicable), that refers to and incorporates this Note by the number hereof.

"Principal Amount" shall mean: (i) before the Conversion Date for this Note, the aggregate amount of Advances made for each Principal Due Date specified in the Commitment Schedule attached to this Note, less the amount of any redemptions pursuant to Section I.D. hereof, and any principal repayment; and (ii) on or after the Conversion Date, the principal amount (if any) stated for each Principal Due Date in Schedule P&I attached hereto, less the amount of any principal repayment and any Optional Redemptions made pursuant to Section III hereof and the Trust Agreement.

B. Timely Payment to Fiscal Agent or Trustee

Notwithstanding anything contained in Section I, Section II, or Section III, the Borrower, in accordance with the Contract, shall be required to make all payments of interest and principal, including any Optional Redemption payment, directly to the Fiscal Agent or the Trustee (as applicable) on the seventh Business Day prior to the appropriate Interim Payment Date, Interest Due Date, Principal Due Date, Prepayment Date, or date of Optional Redemption, as applicable.

C. Interest on Late Payments

If a payment of principal or interest herein provided for shall not be made by either (i) 2:30 p.m. on an Interest Due Date or Principal Due Date; or (ii) 2:30 p.m. on the second Business Day (as herein defined) next succeeding an Interim Payment Date, then interest shall accrue on the amount of such payment at the then applicable interest rate or rates payable on this Note, from the relevant due date, as the case may be, until the date such payment is made. Nothing in the immediately preceding sentence shall be construed as permitting or implying that the Borrower may, without the written consent of the Holder and the Secretary, modify, extend, alter or affect in any manner whatsoever the right of the Holder timely to receive any and all payments of principal and interest specified in this Note.

D. Applicability of Fiscal Agency Agreement or Trust Agreement

Prior to the Conversion Date, this Note and Advances and payments made hereunder shall be administered pursuant to the terms of the Fiscal Agency Agreement and are subject to such agreement. On or after the Conversion Date, this Note and Advances and payments made hereunder shall be administered pursuant to the Trust Agreement and are subject to such agreement. The terms and provisions of the Fiscal Agency Agreement or the Trust Agreement, insofar as they affect the rights, duties and obligations of the Holder and/or the Borrower, are hereby incorporated herein and form a part of this Note. The Borrower hereby agrees to be bound by all obligations of the Borrower to the Fiscal Agent set forth in the Fiscal Agency Agreement. Capitalized terms not defined in this Note shall have the meanings ascribed to them in the Fiscal Agency Agreement or Trust Agreement, as applicable. The Fiscal Agency Agreement provides for the Fiscal Agent to perform certain duties, including the duties of (i) paying agent and calculation agent for this Note until its Conversion Date, and (ii) registrar for this Note until this Note is canceled or a new registrar appointed, each in accordance with the Fiscal Agency Agreement. The Trust Agreement provides for the Trustee to perform certain duties, including the duties of collection agent for this Note after its Conversion Date until a new Trustee is appointed in accordance with the Trust Agreement. This Note may be surrendered to the Fiscal Agent for registration of transfer or exchange, as provided in the Fiscal Agency Agreement. The Fiscal Agent and Trustee each shall permit reasonable inspection to be made of a copy of the Fiscal Agency Agreement or Trust Agreement kept on file at its respective corporate trust office. Neither the Fiscal Agency Agreement nor the Trust Agreement shall change the Borrower's payment obligations under this Note.

E. Applicability of Contract and Secretary's Guarantee

This Note evidences indebtedness incurred pursuant to and in accordance with the Contract and pursuant to Section 108 of Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. § 5308) (the "HCD Act"). This Note is subject to the terms and provisions of the Contract, to which Contract reference is hereby made for a statement of said terms and provisions and for a description of the collateral security for this Note. The payment of principal on the applicable Principal Due Dates and interest on the applicable Interim Payment Dates or Interest Due Dates under this Note is unconditionally guaranteed by the Secretary to the Holder through a guarantee (the "Guarantee"). Execution of the Secretary's Guarantee is required before this Note is effective, and such Guarantee shall be issued pursuant to and in accordance with the terms of the Contract and Section 108 of the HCD Act.

F. Default

A default under this Note shall occur upon failure by the Borrower to pay principal or interest on this Note when due hereunder. If a Borrower defaults on the payment of any interest or Principal Amounts when due, or if the Secretary gives notice of a final decision to declare the Borrower in default pursuant to the following paragraph of this Section IV.F, the Secretary may, but is not obligated to, make on any date on or prior to the Conversion Date with fourteen calendar days prior notice to the Fiscal Agent, or on the seventh Business Day preceding any Interest Due Date on or after the first permissible Optional Redemption date with seven Business Days prior notice to the Trustee, an acceleration payment to the Fiscal Agent or the Trustee, as applicable, equal to the unpaid Aggregate Principal Amount of the Note, together with accrued and unpaid interest thereon to such acceleration payment date or Interest Due Date, as applicable. In the event that any such acceleration payment is made from sources other than funds pledged by the Borrower as security under the Contract (or other Borrower funds), the amounts paid on behalf of the Borrower shall be deemed to be immediately due and payable to the Secretary. Nothing in this paragraph shall be construed as permitting or implying that the Borrower may, without the written consent of the Holder and the Secretary, modify, extend, alter or affect in any manner whatsoever the right of the Holder timely to receive any and all payments of principal and interest specified in this Note.

In addition, the Secretary may declare the Borrower in default under this Note if the Secretary makes a final decision in accordance with the provisions of 24 C.F.R. § 570.913 (or any successor regulation thereof), including requirements for reasonable notice and opportunity for hearing, that the Borrower has failed to comply substantially with Title I of the HCD Act. Following the giving of such reasonable notice, the Secretary may take the remedial actions specified as available in the relevant provisions of the Contract pending the Secretary's final decision.

G. Holder's Reliance on Guarantee

Following a default by the Borrower under the terms of this Note, the Holder agrees to rely wholly and exclusively for repayment of this Note upon the Guarantee. The enforcement of any instruments or agreements securing or otherwise related to this Note shall be the sole responsibility

of the Secretary, and the Holder shall not be responsible for the preparation, contents or administration of such instruments and agreements, or for any actions taken in connection with such instruments and agreement. The Holder, to the extent it is legally able to do so, shall bind or cause to be bound its successors and assigns to all limitations imposed upon the Holder by this Note.

#### H. Amendment

This Note may only be amended with the prior written consent of the Secretary and the Borrower. No such amendment shall reduce, without the prior written consent of the Holder of this Note, in any manner the amount of, or delay the timing of, payments required to be received on this Note by the Holder, Fiscal Agent or Trustee, including Guarantee Payments; provided that prior to the Conversion Date, the Commitment Amounts on the Commitment Schedule attached hereto, and the Principal Amounts due on the corresponding Principal Due Dates may be rescheduled pursuant to written instructions given to the Fiscal Agent by the Secretary based upon a written request by the Borrower absent the consent of the Holder.

Notwithstanding the foregoing, Borrower agrees that Note may be amended without consent of the Borrower to establish a Subsequent Rate and a Subsequent Variable Interest Rate for purposes of determining the Applicable Rate, if the Secretary, in his or her sole discretion, determines that an Applicable Rate based upon the 3-Month T-Bill Rate no longer represents a reasonable rate, and the Secretary and Holder agree on a reasonable Subsequent Rate and Subsequent Variable Interest Rate. Any amendment establishing a Subsequent Rate and Subsequent Variable Interest Rate shall be appended to and become part of this Note as of the effective date of such amendment. Borrower shall be given 30 days-notice prior to the effective date of an amendment establishing a Subsequent Rate and Subsequent Variable Interest Rate.

#### I. Waivers

The Borrower hereby waives any requirement for presentment, protest or other demand or notice with respect to this Note. The Borrower hereby waives notice of default and opportunity for hearing for any failure to make a payment when due.

#### J. Delivery and Effective Date

This Note is deemed issued, executed, and delivered on behalf of the Borrower by its authorized official as an obligation guaranteed by the Secretary pursuant to Section 108 of the HCD Act, effective as of the date of the Secretary's Guarantee.

### V. Borrower-Specific Provisions

[This space intentionally left blank]

**THE UNDERSIGNED**, as an authorized official of the Borrower, has executed and delivered this Note.

**City of College Station, Texas**

BORROWER

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)



ASSIGNMENT AND TRANSFER

For value received, the undersigned assigns and transfers this Note to

\_\_\_\_\_  
(Name and Address of Assignee)

\_\_\_\_\_  
(Social Security or Other Identifying Number of Assignee)

and irrevocably appoints \_\_\_\_\_  
attorney-in-fact to transfer it on the books kept for registration of the Note, with full power of  
substitution.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Note: The signature to this assignment  
must correspond with the name as written on  
the face of the Note without alteration or  
enlargement or other change.

Signature Guaranteed:

\_\_\_\_\_  
Qualified Financial Institution

By: \_\_\_\_\_  
Authorized Signature

[This page to be completed by the Fiscal Agent for transfer of the Note by the Holder as of the  
Conversion Date pursuant to the last paragraph of Section I.A. of this Note.]

## APPENDIX A

### **Special Pre-Conversion Interest Rates.**

- (a) The Holder and the Secretary contemplate that the majority of the outstanding Variable/Fixed Rate Notes will be purchased by underwriters selected by the Secretary for sale in public offerings to occur each year. If a public offering including this Note has not occurred by each March 1 following the initial Advance under this Note, the Secretary shall, upon request, advise the Holder as to when a public offering including this Note is expected to occur, and the Holder and the Secretary agree to consult with each other as to what the interest rate on this Note will be after May 1 of that year if a public offering has not occurred by such May 1. The Holder shall notify the Secretary if such consultation has not occurred by April 1 of that year. If no public offering including this Note has occurred on or before such May 1, the applicable interest rate on this Note from such May 1 shall be the rate (if any) negotiated and agreed upon by the Secretary and the Holder. Such rate may be the Standard Note Rate or some other rate agreed upon by the Holder and the Secretary at least two Business Days before such May 1 (such other rate, the "Negotiated Special Interest Rate"). The Secretary shall notify the Fiscal Agent and the Holder in writing of any Negotiated Special Interest Rate within two Business Days of the determination thereof.
- (b) If the Secretary and the Holder do not, by the April 15th preceding such May 1, negotiate and agree under Section (a) of this Appendix on an interest rate applicable to this Note, then the Holder may, on or before the April 20th preceding such May 1, give written notice to the Secretary of its intent to change the interest rate on this Note and, if such notice was given during such period, the Holder may, on such May 1, unilaterally determine (subject to the terms of this paragraph) the interest rate that this Note will bear (such rate, the "Holder Determined Interest Rate") from and including such May 1 to but excluding the earliest of: (i) the Conversion Date; (ii) the date that this Note is purchased by a new Holder (as described in Section (c) below) or (iii) a Monthly Special Reset Date (as defined below). Interest from and including such May 1 to but excluding the Public Offering Date shall be paid on the unpaid principal balance of all outstanding Advances under this Note at the rate(s) to be determined by the Holder which, based upon then prevailing market conditions and taking into account all the circumstances, will enable the Holder to sell this Note at one hundred percent (100%) of the aggregate amount of all Advances hereunder prior to the date of such sale. Such interest rate shall be determined as of such May 1 and shall be determined again on the foregoing basis on the first of each month thereafter (the first of each month after such May 1, a "Monthly Special Reset Date"). The Holder shall notify the Fiscal Agent and the Secretary in writing within two Business Days following such dates of the determination of the Holder Determined Interest Rate and each applicable interest rate determined on a Monthly Special Reset Date.

- (c) If the Secretary and the Holder have failed to agree upon an interest rate pursuant to Section (a) of this Appendix A, the Secretary, upon seven calendar days notice to the Holder, may arrange for the purchase of this Note in full by another entity on the following May 1 or any Business Day thereafter. If such a purchase occurs, the Holder shall sell and assign this Note to the purchaser thereof without recourse to the Holder and deliver this Note and its Guarantee to the Fiscal Agent for registration in the name of the purchaser thereof in accordance with the Secretary's written instructions. The purchase price for this Note shall be 100% of the aggregate amount of all Advances owing hereunder plus accrued interest to the date of purchase. Payment to the Holder of the purchase price for this Note shall be made by the purchaser thereof in Federal funds at the offices of the Holder, or at such other place as shall be agreed upon by the Holder and the Secretary, at 10:00 a.m., New York time, on the date of purchase. After such purchase date this Note shall bear a rate of interest negotiated between the Secretary and the new interim Holder (the "New Purchaser Special Interest Rate"). The Secretary shall notify the Fiscal Agent and the new purchaser in writing of any New Purchaser Special Interest Rate within two Business Days following the date of determination thereof.
- (d) Notwithstanding Sections (a) through (c) (inclusive) of this Appendix, no Borrower is obligated to pay interest at a variable rate exceeding the maximum rate permitted by generally applicable law of the Borrower's state (such rate, the "Maximum Rate"). If the Borrower receives notice of a variable interest payment that exceeds the Maximum Rate, then the Borrower shall timely pay such amount as does not exceed the Maximum Rate, and concurrently shall notify the Secretary and the Fiscal Agent of the reason for any interest non-payment.

## **COMMITMENT SCHEDULE**

Note No. B-20-MC-48-0007

<u>Principal Due Date</u>	<u>Commitment Amount</u>
August 1, 2023	\$104,000
August 1, 2024	107,000
August 1, 2025	110,000
August 1, 2026	114,000
August 1, 2027	117,000
August 1, 2028	121,000
August 1, 2029	125,000
August 1, 2030	128,000
August 1, 2031	132,000
August 1, 2032	136,000
August 1, 2033	140,000
August 1, 2034	145,000
August 1, 2035	149,000
August 1, 2036	154,000
August 1, 2037	158,000
August 1, 2038	163,000
August 1, 2039	168,000
August 1, 2040	173,000
August 1, 2041	179,000
August 1, 2042	185,000
Maximum Commitment Amount =	<b>\$2,808,000</b>

**SCHEDULE P&I\***Note No. B-20-MC-48-0007

Principal Amount	Principal Due Date	Interest Rate**	Optional Redemption Available	
			YES	NO
	August 1, 2023			X
	August 1, 2024			X
	August 1, 2025			X
	August 1, 2026			X
	August 1, 2027			X
	August 1, 2028			X
	August 1, 2029			X
	August 1, 2030			X
	August 1, 2031			X
	August 1, 2032			X
	August 1, 2033		X	
	August 1, 2034		X	
	August 1, 2035		X	
	August 1, 2036		X	
	August 1, 2037		X	
	August 1, 2038		X	
	August 1, 2039		X	
	August 1, 2040		X	
	August 1, 2041		X	
	August 1, 2042		X	

\$ \_\_\_\_\_ = Aggregate Principal Amount

Principal Amounts due on or after August 1, 2033, may be redeemed, subject to the terms contained herein and in the Trust Agreement, on any Interest Due Date on or after August 1, 2032.

\*This schedule will not be completed when initially executed and delivered by the Borrower for Guarantee for interim, variable-rate financing. It will be completed when assigned by the Holder at the request of the Borrower for conversion to Fixed Rates on the Conversion Date. The first date shown above on which Optional Redemption is available is expected to be the same when this schedule is completed, if the Borrower participates in the initial Section 108 public offering after receiving an interim financing Advance hereunder. If the Borrower participates in a later public offering, the first date on which Optional Redemption is available is expected to be correspondingly later.

\*\* The fixed rate applicable to each Principal Amount shall be listed by the Secretary.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY OF COLLEGE STATION, TEXAS, SUPPLEMENTING RESOLUTION 04-28-22-8.5 AND 12-08-22-9.10, AUTHORIZING A PROMISSORY NOTE IN THE PRINCIPAL AMOUNT OF \$2,808,000 PURSUANT TO A CONTRACT FOR LOAN GUARANTEE ASSISTANCE UNDER SECTION 108 OF THE HOUSING COMMUNITY DEVELOPMENT ACT OF 1974, AS AMENDED**

**WHEREAS**, on April 28, 2022 Resolution 04-28-22-8.5 was adopted by the College Station City Council authorizing and approving the transactions which are the subject of this Resolution;

**WHEREAS**, on December 8, 2022, Resolution 12-08-22-9.10 was adopted by the College Station City Council authorizing and approving the transactions which are the subject of this Resolution;

**WHEREAS**, the Note as approved by Resolution 12-08-22-9.10 contained a commitment schedule with a maturity date of August 1, 2041;

**WHEREAS**, prior to the issuance of the Note by the City HUD agreed to update the commitment schedule to reflect a maturity date of August 1, 2042

**WHEREAS**, other than the updated commitment schedule and schedule of P&I attached to the Note, no other changes to the Note have been made since the Note was approved in Resolution 12-08-22-9.10; and

**WHEREAS**, the City deems it advisable to authorize, issue and sell the Note in a principal amount of \$2,808,000 pursuant to the Section 108 Contract and for the purposes stated therein and payable from the sources identified herein; now, therefore,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:**

**PART 1:** The terms of the Note, a copy of which is attached hereto as Exhibit A, and incorporated into this Resolution are approved, and the Note is hereby authorized to be delivered by the City.

**PART 2:** The findings and recitals set forth in the preamble to this Resolution, Resolution 04-28-22-8.5, and Resolution 12-08-22-9.1 are hereby incorporated in and made a part of this Resolution.

**PART 3:** The meeting at which this Resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code 551.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2023.

ATTEST:

APPROVED:

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Mayor

APPROVED:

\_\_\_\_\_  
City Attorney

**February 9, 2023**

**Item No. 10.1.**

Update from the College Station Police Department

**Sponsor:** Billy Couch

**Reviewed By CBC:** City Council

**Agenda Caption:** Presentation, discussion, and possible action on an update from the College Station Police Department.

**Relationship to Strategic Goals:**

- Good Governance

**Recommendation(s):** Receive the report and provide feedback.

**Summary:** Update on calendar year 2022 operations and activities for the College Station Police Department.

**Budget & Financial Summary:** None.

**Attachments:**

None



**February 9, 2023**  
**Item No. 10.2.**  
**Update from the College Station Fire Department**

**Sponsor:** Richard Mann, Chief of Fire and Emergency Services

**Reviewed By CBC:** City Council

**Agenda Caption:** Presentation, discussion, and possible action on an update from the College Station Fire Department.

**Relationship to Strategic Goals:**

- Good Governance

**Recommendation(s):** Receive the report and provide feedback.

**Summary:** Update on calendar year 2022 operations and activities for the College Station Fire Department.

**Budget & Financial Summary:** None.

**Attachments:**

None

**February 9, 2023**  
**Item No. 11.1.**  
**Public Hearing and Presentation Budget Amendment #2**

**Sponsor:** Mary Ellen Leonard, Director of Fiscal Services

**Reviewed By CBC:** City Council

**Agenda Caption:** Public Hearing, presentation, discussion, and possible action on an ordinance amending Ordinance No. 2022-4383 as Budget Amendment Number 2 amending the 2022-2023 Fiscal Year in the amount of \$65,739,921.

**Relationship to Strategic Goals:**

Good Governance  
Financially Sustainable City  
Core Services and Infrastructure  
Neighborhood Integrity  
Diverse & Growing Economy  
Improving Mobility  
Sustainable City

**Recommendation(s):** Staff recommends the City Council approve Budget Amendment #2

**Summary:** The charter of the City of College Station provides for the City Council to amend the annual budget in the event there are revenues available to cover expenditures and after holding a public hearing on such budget amendment. The proposed budget amendment is to increase the FY23 budget appropriations by \$65,739,921 primarily because of the general obligation bonds approved by the electorate in November 2022. The approved bond issuance totals \$56,100,000. Also included is capital and emergency repair expenses for water/wastewater, capital expenses for parks, unlimited potential, and police expenses related to grant awards. Attached is a summary with a complete description of the items included on the proposed budget amendment.

**Budget & Financial Summary:** The City has resources or can reasonably expect resources to cover the appropriations in this budget amendment. The attached summary has the complete description of the items included on the proposed budget amendment. If approved, the net revised 2022-2023 budget appropriations will be \$504,071,968.

**Attachments:**

1. FY23 Budget Amendment #2 Ordinance

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING ORDINANCE NO. 2022-4383 AS BUDGET AMENDMENT NUMBER 2 AMENDING THE BUDGET FOR THE 2022-2023 FISCAL YEAR AND AUTHORIZING AMENDED EXPENDITURES AS PROVIDED IN THIS ORDINANCE.**

**WHEREAS**, on August 25, 2022, the College Station City Council adopted Ordinance No. 2022-4383 approving its Budget for the 2022-2023 Fiscal Year; and

**WHEREAS**, on November 11, 2022, the College Station City Council adopted Ordinance No. 2022-4403 amending its Budget for the 2022-2023 Fiscal Year in Budget Amendment Number 1; and

**WHEREAS**, this Budget Amendment Number 2 was prepared and presented to the City Council and a public hearing held as prescribed by law and the College Station City Charter, after notice of the hearing having been first duly given; now, therefore;

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:**

**PART 1:** That Ordinance No. 2022-4383 is amended by amending the adopted 2022-2023 Budget by a net amount of \$65,739,921 as further detailed in **Exhibit A**.

**PART 2:** That this Budget Amendment Number 2 shall be attached to and made a part of the 2022-2023 Budget.

**PART 3:** That except as amended hereby, Ordinance No, 2022-4383 shall remain in effect in accordance with its terms.

**PART 4:** That this ordinance shall become effective immediately after passage and approval.

**PASSED and APPROVED this 9<sup>th</sup> day of February 2023.**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**City Secretary**

\_\_\_\_\_  
**Mayor**

**APPROVED:**

\_\_\_\_\_  
**City Attorney**

## EXHIBIT A – FY23 BUDGET AMENDMENT #2 DETAIL LISTING

1. **Water/Wastewater Emergency Repairs \$500,000 (Budget Amendment).** This item will increase budget in the Water and Wastewater funds to address emergency repairs affecting local businesses and residents. This item will fund the materials and labor needed to restore utility service.
2. **Unlimited Potential \$240,000 (Budget Amendment).** Unlimited Potential will utilize \$104,545 in Community Development Block Grant (CDBG) funds from the current budget and \$240,000 from the General fund to demolish an unsafe structure they own located at 1115 Anderson. The CDBG funds were included in the 2022-2023 Community Development Budget. This budget amendment allows for the allocation of General funds to complete this demolition.
3. **General Obligation Bond Projects Initial Budget \$56,100,000 (Budget Amendment).** This item appropriates the budgets for the voter approved projects from the November 2022 Bond Election. This amount is the total of all approved projects. This item only appropriates the budgets. Debt will be issued later this year. The City anticipates issuing debt to match expected expenses when they occur.
4. **Texas Independence Ballpark \$4,600,000 (Budget Amendment).** This item increases the budget for Texas Independence Ballpark to cover the purchase of City- provided equipment and materials to be installed by the construction contractor. The equipment includes bleachers, field lights, scoreboard equipment and wiring, shade structures, dugouts, and broadcasting/lighting systems. This item also includes an amount equivalent to 5% of the total construction cost (including City-provided items) for future contingency. This item will be paid for by additional Certificate of Obligation debt to be issued later this year.
5. **Water/Wastewater State Highway 6 Utility Relocates \$3,363,000 (Budget Amendment).** This item will increase budget in the Water and Wastewater capital funds to move City utilities in coordination with the State Highway 6 widening project. This budget will be appropriated across 4 separate utility relocation projects. These additional capital costs will be paid for via utility revenue and debt.
6. **Bullet Resistant Shields Grant expenditure - \$170,921 (Budget Amendment).** Police Department was awarded a \$170,921 grant from the Office of the Governor to equip peace officers with bullet-resistant shields. Funds will be used for obtaining bullet-resistant shields compliant with the National Institute of Justice (NIJ) Level III, III+, or IV. Amendment increases expenditure budget for the costs incurred and recognize the revenue to be received.
7. **Move Departmental Operating Costs from Insurance (Internal Service) Funds to General Fund -\$766,000 (Budget Amendment).** The City established self-insured Property Casualty, Employee Benefits (medical and wellness plans), and Workers Compensation Funds with the intent to lower costs and maintain stability in premiums. Operating costs will move to the General Fund Human Resources Division that is tasked with the administration of the Insurance Funds. This amendment is for operating costs included in the General Fund assigned fund balance on page 36 of the FY23 budget document. This item is moving that previously assigned balance to the General Fund operating budget.

**February 9, 2023**  
**Item No. 11.2.**  
**1207 Texas Ave Plaza**

**Sponsor:** Jennifer Cain, Director Capital Projects

**Reviewed By CBC:** City Council

**Agenda Caption:** Presentation, discussion, and possible action regarding a change order to the CMAR contract for renovations at 1207 Texas Avenue with JaCody Construction, LP to add a Plaza Addition at 1207 Texas Avenue, for an amount not to exceed \$294,000.

**Relationship to Strategic Goals:**

Core Services and Infrastructure

**Recommendation(s):** Staff recommends approval.

**Summary:** The City is currently renovating the facility located at 1207 Texas Avenue for office and event space for the Economic Development and Tourism departments. The Human Resources department and Facilities Maintenance division were previously located in this building. HR has moved into the new City Hall building and Facilities Maintenance has moved to their new building located at 300 Krenek Tap Road. The renovation project includes updating the building to current codes and upgrading mechanical, plumbing, and electrical systems, as well as adding an event space in the old fire station bays. Extensive facade work to the exterior of the building is also included. Staff determined that a construction manager at risk (CMAR) procurement method was the most beneficial for this project. The City awarded the CMAR contract to JaCody Construction, LP in November 2021.

This change order is to add an outdoor plaza space off of the event space located adjacent to the City Hall front lawn. The work includes earth work, utility work, concrete work, limestone retaining wall, landscape and irrigation, lighting, and shade structures. Images and more details will be provided in the presentation. This change order is for an amount not to exceed \$294,000.

**Budget & Financial Summary:** A budget in the amount of \$4,805,000 is included in the General Government Capital Projects Fund. A total of \$4,289,514 has been expended or committed to date, leaving a balance of \$515,486 for this item and related costs.

**Attachments:**

1. 1207 Texas Ave Change Order for Plaza Addition

JaCody Construction, LP  
10770 Hwy 30  
College Station, Texas 77845  
Phone: (979) 774-5613  
Fax: (979) 774-5693

**Project:** 1069 - Renovation of 1207 Texas Ave  
1207 Texas Ave  
College Station, Texas 77845

## Prime Contract Potential Change Order #019: PR-005 Plaza Addition

<b>TO:</b>	City of College Station PO Box 9973 College Station, Texas 77842-9973	<b>FROM:</b>	JaCody Construction, LP JaCody Construction, LP 10770 State Highway 30 Suite 400 College Station, Texas 77845
<b>PCO NUMBER/REVISION:</b>	019 / 0	<b>CONTRACT:</b>	1 - The Renovation of 1207 Texas Avenue
<b>REQUEST RECEIVED FROM:</b>	Jennifer Cain (City of College Station)	<b>CREATED BY:</b>	Jeff Day (JaCody Construction, LP)
<b>STATUS:</b>	Pending - In Review	<b>CREATED DATE:</b>	1/20/2023
<b>REFERENCE:</b>		<b>PRIME CONTRACT CHANGE ORDER:</b>	#010 - PR-005 Plaza Addition
<b>FIELD CHANGE:</b>	No		
<b>LOCATION:</b>		<b>ACCOUNTING METHOD:</b>	Amount Based
<b>SCHEDULE IMPACT:</b>	6 days	<b>PAID IN FULL:</b>	No
<b>EXECUTED:</b>	No	<b>SIGNED CHANGE ORDER RECEIVED DATE:</b>	
		<b>TOTAL AMOUNT:</b>	\$293,481.30

**POTENTIAL CHANGE ORDER TITLE:** PR-005 Plaza Addition

**CHANGE REASON:** Client Request

**POTENTIAL CHANGE ORDER DESCRIPTION:** *(The Contract Is Changed As Follows)*

CE #039 - PR-005 Plaza Addition

Includes all labor, equipment, and materials to perform work shown per PR-005 and per qualifications listed below:

- Schedule is based off approval at 2/9/23 City Council meeting and current lead times provided by USA Shade. Any delays in approval or procurement of shade structures will result in additional general conditions.
- USA Shade is currently stating 4-6 week lead time for show drawings and 4-6 weeks for fabrication upon approved shop drawings.
- Includes compacted subgrade and 2" sand bed only under flatwork areas.
- Excludes any rework or repair of existing 24" HDPE storm line and existing 8" water line.
- Includes pothole of existing 6" water line. Does NOT include any rework of 6" water line.
- Includes pumping, removal, and backfill of existing grease trap.
- Includes \$5,000 for repair of sod and existing irrigation from excavation and trenching for electrical.
- Limestone retaining wall priced per included detail.
- Landscape irrigation to terminate within 3' of existing 3" mainline. Connection and controls to be provided by others.
- String lights have been VE'd to the attached Aluz A5 series.
- Ground boxes priced as Legrand Outdoor Ground Box as provided by Kirksey email.
- Excludes and damage or replacement to existing trees. Proposed flat work does appear to encroach on driplines of existing trees.
- Landscape planters and associated irrigation and drainage has been deleted as a VE option.
- Shade structures at back of building have been deleted as a VE option.

**ATTACHMENTS:**

#	Budget Code	Description	Amount
1	01-3151.O Superintendent 1.Other	Superintendent	\$17,000.00
2	01-3111.O Project Manager 1.Other	Project Manager	\$15,000.00
3	01-7419.O Dump,Waste Mngmnt&Disposal.Other	Dumpster	\$400.00
4	01-5441.O Equip Rental.Other	Equipment Rental	\$1,500.00
5	01-5220.O Temp Toilets-Jobsite.Other	Temp Toilets	\$1,200.00
6	01-7420.O Final Clean-JaCody.Other	Final Clean	\$1,000.00



#	Budget Code	Description	Amount
7	01-7829.O Final Site Survey.Other	Layout	\$1,500.00
8	01-5601.O Temp Fence Subk 1.Other	Temp Fence	\$1,500.00
9	03-0501.O Concrete Subk 1.Other	Site Concrete	\$25,813.00
10	13-3001.O Shade Structures	Shade Structures	\$71,975.00
11	26-0501.O Electrical Subk 1.Other	Electrical	\$28,500.00
12	31-0501.O Earthwork Subk 1.Other	Earthwork	\$19,565.00
13	31-6321.O Drilled Piers	Drilled Piers	\$2,500.00
14	31-1379.O Tree Protection	Tree Protection	\$250.00
15	32-9001.O Landscaping Subk 1.Other	Landscape and Irrigation	\$5,927.00
16	32-9001.O Landscaping Subk 1.Other	Irrigation and Sod Repair Allowance	\$5,000.00
17	32-9001.O Landscaping Subk 1.Other	Irrigation Sleeves	\$400.00
18	32-3201.O Retaining Wall	Limestone Retaining Wall	\$42,050.00
19	33-0501.O Site Utility Subk 1.Other	Site Utilities	\$28,600.00
20	01-1130.O General Liability Ins.Other	Insurance 1.5%	\$4,413.00
21	01-0201.O Perf & Pay Bond Premium.Other	Bond	\$5,413.00
<b>Subtotal:</b>			<b>\$279,506.00</b>
OH&P (5.00% Applies to all line item types.):			\$13,975.30
<b>Grand Total:</b>			<b>\$293,481.30</b>

**February 9, 2023**  
**Item No. 11.3.**  
**Aggieland Sign**

**Sponsor:** Jennifer Cain, Director Capital Projects

**Reviewed By CBC:** City Council

**Agenda Caption:** Presentation, discussion, and possible action regarding the construction of an interactive sign to be located at 1101 Texas Avenue, for an amount not to exceed \$85,000.

**Relationship to Strategic Goals:**

Core Services and Infrastructure

**Recommendation(s):** Staff recommends approval.

**Summary:** A large format interactive sign in front of City Hall at 1101 Texas Avenue is proposed. This type and style of sign is similar to the signs on the Texas A&M University campus and will provide another interactive opportunity to engage the community. Images and more details will be provided in the presentation. The sign and the associated electrical work is a total expense not to exceed \$85,000.

**Budget & Financial Summary:** A budget in the amount of \$4,805,000 is included in the General Government Capital Projects Fund. A total of \$4,289,514 has been expended or committed to date, leaving a balance of \$515,486 for this item and related costs.

**Attachments:**

1. Aggieland Sign - Dailey Electrical Proposal
2. Aggieland Sign - Comet Signs Proposal 1-3-2023





★ Electric ★ Heating ★ Cooling ★ Plumbing ★

COLLEGE STATION

979-694-4044

HOUSTON

713-465-1130

PROPOSAL SUBMITTED TO CITY OF COLLEGE STATION		PHONE 979-764-3476	DATE 10/5/2022
STREET 1101 TEEBAS AVE.		JOB NAME	
CITY, STATE, and ZIP CODE COLLEGE STATION, TX 77845		EMAIL <a href="mailto:CDOHNALIK@CSTX.GOV">CDOHNALIK@CSTX.GOV</a>	
ATTN: CRAIG DOHNALIK	DATE OF PLANS		JOB PHONE

We hereby submit specifications and estimates for:

**THIS BID INCLUDES:**

- \* Provide and install 200A meter pedestal for sign power.
- \* Bore 2" conduit 150' from existing utility pole to new pedestal.
- \* Provide and install (2) 20A circuits from pedestal to sign location.

**BID EXCLUDES:**

- \* Overtime and after hours.
- \* Providing and installing conductors from utility pole to pedestal.

We propose hereby to furnish material and labor - complete in accordance with above specifications, for the sum of:

**Thirteen thousand nine hundred eighty-five dollars.**

**\$13,985.00**

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Worker's Compensation Insurance.

Authorized  
Signature Brad Cottrell

Note: This proposal  
may be withdrawn by  
us if not accepted

**Acceptance of Proposal** - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature \_\_\_\_\_

Date of Acceptance: \_\_\_\_\_

Signature \_\_\_\_\_

P.O. BOX 10109, COLLEGE STATION, TEXAS 77842



5003 STOUT DR  
SAN ANTONIO, TX 78219  
(210) 341-7244

NAME OF CUSTOMER (LEGAL NAME and any DBA) CITY OF COLLEGE STATION	CUSTOMER CONTACT JENNIFER CAIN	PHONE 979-764-3795
STREET 1101 TEXAS AVE	JOB NAME CITY OF COLLEGE STATION I LOVE AGGIELAND	
CITY, STATE and ZIP CODE COLLEGE STATION, TX 77840	JOB LOCATION 1101 TEXAS AVE, COLLEGE STATION, TX 77840	

ACCEPTANCE REQUIRES: Due to current steel pricing volatility and extreme cost increases, estimates for pylons or monuments with steel pipes are good for 7 days.		
Regulated by the Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711 - Phone: 512-463-6599 Toll-Free: 800-803-9202 Online: <a href="http://www.license.state.tx.us/Complaints">http://www.license.state.tx.us/Complaints</a> (Ref: 1305)		
TEXAS MASTER SIGN LICENSE TDLR # 7333		TEXAS ELECTRICAL SIGN CONTRACTOR TDLR # 18010
We Propose to furnish, subject to the terms and conditions on the front and back of this proposal, the items set forth below, for the estimated sum of:		
		(\$ _____).
PAYMENT TO BE MADE AS FOLLOWS 50% Down - Net 30		Note: Reference TAMU Contract Number C2022-5060
		This proposal may be withdrawn if not accepted in 30 days.

No.	Scope of Work	Quantity	Price	Extended
1	SIGN A - MANUFACTURE MANUFACTURE 7' TALL 18" DEEP ILLUMINATED FABRICATED LETTERS AND HEART. LETTERS TO READ "I" "HEART SYMBOL" "AGGIELAND". LETTER "I" HAS OPEN INTERIOR WITH LED PUCK LIGHTS LOCATED AT TOP. AGGIELAND LETTERS FACE PAINTED AGGIE MAROON AND RETURNS AND BACKS PAINTED WHITE. LETTERS TO HAVE .125" THICK ALUMINUM FACE TO HAVE A ROUTED PERIMETER BACKED WITH .177" THICK WHITE ACRYLIC WITH DIRECT PRINT TRANSLUCENT FACES. 1/2" WHITE BORDER AT EDGE OF RETAINER. LETTERS ARE ILLUMINATED WITH WHITE LED'S AND SELF CONTAINED POWER SUPPLIES. HEART TO BE PAINTED ON ALL SIDES SAME CONSTRUCTION AS AGGIELAND LETTERS WEEDED HIGHLIGHT.	1.00	\$49,462.00	\$49,462.00
2	SIGN A - INSTALL SIGN A - INSTALL SIGN A WITH BASE STRUCTURE, CONCRETE PAD, AND FOOTERS	1.00	\$19,168.00	\$19,168.00
3	ENGINEERING COMET SIGNS TO OBTAIN STAMPED ENGINEERING.	1.00	\$450.00	\$450.00
4	PERMIT ACQUISITION FEE - AUSTIN SINGLE STAFF TIME TO OBTAIN PERMITS	1.00	\$350.00	\$350.00
5	PERMIT COST PERMIT FEE BILLED AT COST. ADDED TO FINAL INVOICE.	1.00		
6	SALES TAX COMET SIGNS COLLECTS SALES TAX ONLY IN STATES WHERE THE COMPANY MAINTAINS A PHYSICAL PRESENCE OR IS REGISTERED TO COLLECT AND REMIT SALES TAX TO THE APPROPRIATE TAXING AUTHORITY (TX, AR, LA & WI). PURCHASER IS RESPONSIBLE FOR ALL APPLICABLE TAXES INCLUDING SALES, USE, EXCISE OR OTHER SIMILAR TAXES IN COMET NO NEXUS STATES.			
			TOTAL:	\$69,430.00

ACCEPTANCE OF PROPOSAL AND AGREEMENT TO TERMS

By signing below, I confirm that I am authorized by Customer to enter into this Agreement. I have read and understand the terms and conditions on the front and back. Customer expressly agrees to all the terms and conditions of the Proposal and Agreement. **The undersigned expressly consent(s) to Comet obtaining credit and financial information concerning Customer and/or a consumer credit report on Customer (if Customer is a sole proprietorship) at any time and from any source for the purpose of evaluating Customer's creditworthiness in connection with any request for business credit.** I confirm that any credit is sought for commercial purposes, not for personal, family or household use.

Approved by Comet:

Customer:

Tina Coleman  
210-812-2236

Date

Signature

Date

Print Name

Title



5003 STOUT DR  
SAN ANTONIO, TX 78219  
(210) 341-7244

NAME OF CUSTOMER (LEGAL NAME and any DBA) CITY OF COLLEGE STATION	CUSTOMER CONTACT JENNIFER CAIN	PHONE 979-764-3795
STREET 1101 TEXAS AVE	JOB NAME CITY OF COLLEGE STATION I LOVE AGGIELAND	
CITY, STATE and ZIP CODE COLLEGE STATION, TX 77840	JOB LOCATION 1101 TEXAS AVE, COLLEGE STATION, TX 77840	

No.    Scope of Work    Quantity    Price    Extended

IMPORTANT CUSTOMER NOTIFICATIONS

- The Customer agrees to accept responsibility for insuring structures, building and property conform to all requirements of land-lord, city planning & zoning departments and other governing and permitting agencies as it applies to this contract. The Customer further agrees to accept responsibility for the placement of the sign(s). Comet relies entirely on Customer's instructions concerning placement and Customer's representations concerning the location of the easement, right-of-ways, set-backs and other similar restricted areas.
- Price is subject to current sales tax unless a tax exempt certificate is presented with the order.
- An additional charge will be made if rocks or other obstructions are encountered in excavation of foundations.
- The purchaser agrees to accept responsibility for any damages incurred beneath the surface where excavation is required.
- Permitting and engineering fees, when applicable, plus staff time will be added to the final invoice.
- Dedicated 120v circuit and GFI transformer with designated ground as required by National Electrical Code and primary electrical service wiring, disconnect switches and timers must be supplied by others at customer's expense. Comet Signs will perform final connection to primary electrical connection within 5 feet of sign if available at time of installation.
- Additional trips to site for installation or electrical connection due to site not being ready on agreed upon install date will be billed as additional trip charges.

**Contrary Terms Rejected:** No acceptance which varies the terms of this proposal or proposes additional terms is effective. Any variance is rejected, unless expressly approved by Comet in writing.

**Parties.** "Comet" when used herein means Comet Signs, LLC. "Customer" when used herein means the person or entity to whom goods or services were sold or delivered.

**Payment:** Customer shall pay the full amount of the invoice(s) for the goods or services, plus tax when due at Comet's address on the front page of this Agreement. Unless otherwise agreed in writing, terms are 50% of goods and services due upon acceptance of this proposal. The remaining 50% of goods and services due upon receipt. Interest at the rate of 18% per annum, or the maximum allowed by law, will be charged on past due unpaid amounts. Customer shall pay all taxes resulting from transactions, such as occupation, property, excise, sales or use tax. Customer shall pay all costs of collection incurred by Comet, including attorney's fees, costs and expenses.

**Title:** Comet retains title to delivered goods until such time as payment is made in full by Customer. The parties expressly agree that the signing of this Agreement, constitutes a security agreement as contemplated by Article 9 of the Uniform Commercial Code and insures Comet's title of delivered goods. Said security agreement shall continue until Seller receives full payment for delivered goods secured hereby. At all times prior to payments being made and all of the conditions herein contained being fully satisfied by Customer, the goods shall be deemed personal property, and shall not, by reason of attachment or connection to any realty, become or be deemed a fixture or appurtenance to such realty but shall at all times be severable therefrom.

**Installation:** Customer shall be solely responsible to pay for, install, and provide all utilities to be used by the goods. Customer shall be responsible for any necessary building reinforcement, relocation of utility lines, or other obstacles to installation. Customer shall be responsible for any additional installation costs, including labor and material, incurred by Comet caused by such conditions as water, adverse soil conditions, underground obstructions, or other obstructions. Any costs pertaining to staging, rigging, and/or rental equipment associated with multiple story building installations shall be additional costs to be paid by Customer.

**Approval and Permits:** Customer shall be responsible for securing all necessary approval for installation, use, and existence of goods on the applicable premises. The prices for goods and services do not include the cost of permits, cost to obtain permits, or the cost of variance appeals required to obtain permits, which costs, if incurred by Comet, will be invoiced to and shall be paid by Customer. Comet may obtain (as Customer's agent where necessary) permits and licenses from public authorities for the initial installation of goods. *Comet shall not be obligated to commence construction of goods until public permits have been issued.* If such permits are denied, after every reasonable effort by Comet and Customer to secure same, then this Agreement shall terminate without liability to either party except that Customer shall pay Comet for all manufacturing costs and other costs of performing this Agreement theretofore incurred by Comet.

**Price Increases and Delay:** Any date of completion or delivery is an estimate. Comet and its agents shall commence fabrication of the goods promptly following receipt of all permits, licenses, and approvals. Goods to be installed shall be installed as soon as reasonably practical after fabrication. If for any reason, other than fault or neglect of Comet, fabrication has not commenced within 45 days from date of Comet's acceptance of this Agreement, or if delivery, tender, or installation, of goods shall be delayed, deferred, or postponed for any reason, other than fault or neglect of Comet or its agents, beyond 90 days from date of such acceptance, then, in such event, the purchase price and installation price, are subject to increase as determined by Comet. If, after fabrication of goods is commenced, Customer requests that Comet cease or delay fabrication, or if Customer is in default under this Agreement, then Customer, in addition to all other obligations under this Agreement shall be responsible for all Comet's additional costs and expenses incurred. Any cessation or delay shall not relieve Customer of any of its obligations under this Agreement.

**Warranty:** Comet warrants its services and goods of its manufacture for a period of twelve (12) months, from the date of delivery of a good or service, against defects in material or workmanship. **The obligation of Comet and Customer's sole and exclusive remedy hereunder shall be limited at Comet's sole option to the following: (a) To replace or repair any goods or services, which are determined by Comet to be defective during the warranty period. Comet's obligation to repair or replace constitutes agreed and liquidated damages for any breach of Comet's warranty; or, (b) Should the goods or services be determined by Comet to be so defective as to preclude the remedy of warranted defects by replacement or repair, Customer's sole and exclusive remedy shall then be a refund of the purchase price, less a reasonable charge for any utilization by Customer. THE LIMITED EXPRESS WARRANTY SET FORTH HEREIN, AND THE STATED REMEDIES FOR BREACH THEREOF, SHALL BE IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES FOR MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, AND IN LIEU OF LIABILITY FOR SELLER'S NEGLIGENCE OR FAULT.** The alternation, modification, unauthorized repair, neglect, misuse, or damage from vandalism, acts of God including, but not limited to, fire, wind, hail, and lightning, WAIVES AND EXCLUDES ALL WARRANTIES AND OBLIGATIONS OF COMET, **including the limited express warranty set forth herein.** Notice of defective goods or services must be given in writing to Comet. Customer must keep the goods in unaltered condition for examination by Comet. **All warranty claims must be made within ten (10) days after discovery, or after such claims should have been discovered, or else be barred from any remedy.** Any suit for claims arising out of or related to any goods or services must be brought not later than one (1) year after the date the goods or services are delivered to Customer or the agent of Customer. Comet does not warrant fluorescent, HID lamps, incandescent bulbs, and Electronic Information Displays, including, electronic message centers and time and temperature units. Such goods are sold AS IS, WHERE IS. Any applicable warranties for EID, fluorescent, HID, are provided by original manufacturer.

**Limitation of Damages:** **In no event shall Comet be liable for any special, consequential or incidental damages, whether or not said damages are caused, in whole or in part, by any delay, failure, nonperformance, or negligence of Comet or any of its agents, or the breach by Comet of any terms or conditions contained herein or made part of this Agreement.**

**Indemnity.** CUSTOMER AGREES TO INDEMNIFY, DEFEND, AND HOLD COMET HARMLESS FROM AND AGAINST ANY AND ALL LOSS, DAMAGE, SUITS, CIVIL AND OTHER LIABILITY AND EXPENSES (INCLUDING, BUT NOT LIMITED TO REASONABLE INVESTIGATION AND LEGAL EXPENSES) ARISING OUT OF ANY CLAIM FOR LOSS OF OR DAMAGE TO PROPERTY, INJURIES TO OR DEATH OF PERSONS, INCLUDING CUSTOMER'S OR COMET'S EMPLOYEES, AND VIOLATION OF ANY LAW OR REGULATION CAUSED BY, ARISING OUT OF, OR RESULTING FROM CUSTOMER'S OBLIGATIONS UNDER THIS AGREEMENT.

**Governing Law:** This Agreement shall be deemed to have been made and entered into in San Antonio, Texas. All disputes arising from or related to this Agreement shall be resolved in courts of Bexar County, Texas, to the exclusion of any other court. All transactions shall be governed by and construed in accordance with the laws of the State of Texas, regardless of any conflict of laws.

**Force Majeure.** Comet may, without liability, delay performance or cancel this Contract on account of *force majeure* events or other circumstances beyond its control, including, but not limited to, strikes, acts of God, political unrest, embargo, failure of source of supply, or casualty.

**Entire Contract:** This Agreement contains the entire agreement between the Parties relating to the transactions contemplated hereby. All prior and contemporaneous agreements, understandings, representations, and statements, whether written or oral, are merged herein and superseded hereby. Any modification to this Agreement must be in writing and executed by the Parties hereto. This Agreement is binding upon the parties and their respective heirs, executors, administrators, successors and assigns.

**February 9, 2023**

**Item No. 14.1.**

**Council Reports on Committees, Boards, and Commissions**

**Sponsor:** City Council

**Reviewed By CBC:** City Council

**Agenda Caption:** A Council Member may make a report regarding meetings of City Council boards and commissions or meetings of boards and committees on which a Council Member serves as a representative that have met since the last council meeting. (Committees listed in Coversheet)

**Relationship to Strategic Goals:**

Good Governance

**Recommendation(s):** Review meetings attended.

**Summary:** Aggieland Humane Society, Arts Council of Brazos Valley, Architectural Advisory Committee, Audit Committee, Bond Citizens Advisory Committee, Bicycle, Pedestrian, and Greenways Advisory Board, Bio-Corridor Board, Brazos County Health Dept., Brazos Appraisal District, Brazos Valley Council of Governments, Brazos Valley Economic Development Corporation, Bryan/College Station Chamber of Commerce, Budget and Finance Committee, BVSWMA, BVWACS, College Station History Sub-Committee, Compensation and Benefits Committee, Design Review Board, Economic Development Committee, Gulf Coast Strategic Highway Coalition, Historic Preservation Committee, Intergovernmental Committee, Joint Relief Funding Review Committee, Library Board, Metropolitan Planning Organization, Parks and Recreation Board, Planning and Zoning Commission, Regional Mobility Authority Board, Regional Transportation Committee for Council of Governments, Sister Cities Association, Spring Creek Local Government Corporation, Transportation and Mobility Committee, Texas Municipal League, Walk with the Mayor, YMCA, Zoning Board of Adjustments. (Notice of Agendas posted on City Hall bulletin board.)

**Budget & Financial Summary:** None.

**Attachments:**

None